RECEIVED
By Agency Clerk at 11:41 am, Apr 13, 2026

ATTACHMENT

ETHICS COMMISSION TRANSCRIPTS

Broward County Ethics Commission

April 8, 2009

MEMBERS: City Commissioner Neal de Jesus, Cooper City - Chair
City Commissioner Carl Schechter, City of Pembroke Pines - Vice Chair
City Commissioner Felicia Brunson, City of West Park
Ken Fink
Robin Rorapaugh
William Scherer, Esquire
Robert Wolfe, Jr.

ALSO PRESENT: Judge Gisele Pollack, County Court, Criminal Division in and for the 17th Judicial Circuit
Broward County Commissioner Diana Wasserman-Rubin
Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Leah Von Leu, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on April 8, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

I. WELCOME AND UPDATE OF ETHICS COMMISSION ISSUES

Neal de Jesus, Chair Pro Tem, opened the meeting and declared a quorum present following the roll call. He then invited Judge Pollack, former Chair of the Ethics Commission, to speak.

Judge Pollack thanked the Ethics Commission members for electing her as their Chair, but stated that she could not serve due to the opinion of the Judicial Ethics Advisory Committee who indicated that Judge Pollack could not serve in this capacity. Upon invitation from the Chair Pro Tem, she read her resignation letter into the record before leaving the meeting.

II. ELECTION OF NEW CHAIR

The Chair Pro Tem then asked for nominations for a new Chair at this time.

On motion of Commissioner Schechter, seconded by Mr. Scherer to nominate Neal de Jesus as Chair, Mr. Fink moved the nomination by acclimation which was seconded by Mr. Wolfe. The Ethics Commission then unanimously approved Neal de Jesus as the new Chair of the Ethics Commission.

As Mr. de Jesus was the former Vice Chair and now the newly elected Chair, he stated briefly that it was a privilege to serve in whatever capacity

this Commission saw fit. He then opened the floor for nominations for a new Vice Chair to be elected.

On motion of Mr. Fink, seconded by Mr. Wolfe and unanimously approved, the Ethics Commission approved Commissioner Carl Schechter to be the new Vice Chair of the Ethics Commission.

III. APPROVE MINUTES FROM FEBRUARY 27, 2009 MEETING

Following Mr. Wolfe's request to have the minutes corrected to reflect that he was not present at the last meeting due to a medical absence, **on motion of Mr. Fink, seconded by Commissioner Schechter and unanimously carried, the Ethics Commission approved the minutes from the February 27, 2009 meeting as amended.**

IV. BRIEF OVERVIEW OF STUDY MATERIALS SENT OUT TO ETHICS COMMISSION

The Chair invited Ms. Cepero at this time to give a brief overview of the documents provided per previous requests. Ms. Cepero explained that due to the volume of documents, a CD was provided rather than hard copies of same. She then handed out a hard copy of the three-page summarized minutes, noting that there were verbatim minutes available for review as well.

Upon inquiry regarding the proper procedure or process to place items on future agendas, it was agreed that it would be brought up under "Other Business."

Mr. Wolfe noted that the creation of the Ethics Commission web site was wonderful but also suggested that the Ethics Commission proceedings be webcasted for the public's viewing and Ms. Cepero stated that she would look into it, noting that the meeting room was wired for that to happen.

Ms. Cepero also noted upon Ms. Rorapaugh's request, that the agenda will be posted on the newly created web site ahead of time, going forward.

Following Mr. Fink's inquiry regarding when the County Commissioners will speak before the Ethics Commission, Ms. Cepero handed out a schedule of their appearances for the next two meetings.

Discussion then ensued as to what experts on the issue of ethics should be invited to speak at future meetings. Ms. Cepero confirmed that she would contact those individuals identified and suggested and get back to the Ethics Commission regarding same, as well as providing minutes and handouts from the past Charter Review Committee regarding the issue of ethics.

V. COUNTY COMMISSIONER WASSERMAN-RUBIN TO ADDRESS ETHICS COMMISSION

The Chair welcomed Commissioner Wasserman-Rubin and invited her to address the Ethics Commission. She explained that there needs to be a clear and concise Code of Ethics crafted and went on to give an example of a complaint filed against her and the fine she had to pay as a result.

Discussion ensued with Commissioner Wasserman-Rubin and she pointed out that people in politics are becoming more cognizant of the fact that they are being scrutinized and that there needs to be someone they can go to for advice.

Commissioner Wasserman-Rubin also brought up the importance of charities and stated that she hopes raising funds for worthy causes continues and that the Ethics Commission's ultimate decision will not impede the County Commission's ability to raise funds for people who need it the most, especially during the difficult economic times.

She concluded by saying that she wants to leave public service with her integrity whole and hopes the final result of the Ethics Commission will be to clarify what an ethics violation is.

Discussion followed regarding a previous Code of Ethics which was drafted and the Chair requested that Ms. Cepero provide the Ethics Commission with a copy of that.

Following an inquiry regarding annual gift reports and financial disclosure reports of County Commissioners, it was agreed to put this as an item for discussion on a future agenda.

Subsequent discussion regarding future meetings, **on motion of Mr. Wolfe, seconded by Mr. Fink and unanimously approved, the Ethics Commission approved moving the time certain for public testimony for the next two meetings to 11:30 a.m. and extending the meetings to 12:00 p.m.**

On motion of Mr. Fink, seconded by Commissioner Schechter and unanimously approved, the Ethics Commission moved to have an evening meeting held on September 9, 2009, from 6:30 p.m. to 8:30 p.m. with public testimony to occur at a time certain at 7 p.m.

The Chair added for further clarification, that if there is a large public turnout that a second evening meeting will held just for public comments.

VI. ACCEPT PUBLIC TESTIMONY

There was no public testimony at this time.

VII. OTHER BUSINESS

Following the Chair's inquiry regarding discussion items for future agendas, the following were requested:

Mr. Fink: Charitable contributions; solicitations; financial disclosure documents online.

Mr. Wolfe: Web casting of meetings; attendance of those newly elected to the Ethics Academy; information on the FAU Ethics Academy; outside lobbying; and a copy of this year's current gift and financial disclosure for the entire County Commission.

Ms. Rorapaugh: Agendas available in advance; a copy of the former Ethics Commission materials that were voted or not voted on; outside compensation issues, and Commissioners' second jobs in light of potential conflicts.

Commissioner Schechter: Campaign financing and solicitation of campaign contributions, as well as the charitable contribution issue.

Mr. Scherer: Copy of the City of Fort Lauderdale's Ordinance on charitable contributions, as well as minutes and the backup material relative to the enactment of that Ordinance.

The Chair concluded that those invitees discussed and identified earlier be scheduled to speak at future meetings, and requested without objection, that Ms. Cepero schedule Mr. Norm Ostrau and Mr. Mark Herron as two of the first invitees be put on the July agenda.

The Chair also requested without objection that Ms. Cepero draft correspondence on behalf of the Ethics Commission to Judge Pollack in appreciation for her brief service.

VIII. ADJOURNMENT

Subsequent motion and a second, the Chair adjourned the meeting at 11:20 a.m.

(A copy of the audio recording of this meeting is available upon request by calling Document Control located in Room 336U, at (954)357-7297.)

Transcript of the Broward County Ethics Commission Meeting

June 10, 2009

MEMBERS PRESENT: Commissioner Neal de Jesus, Cooper City, Chair
Commissioner Carl Schechter, City of Pembroke Pines, Vice Chair
Commissioner Felicia Brunson, City of West Park
Howard Bakalar
Washington Collado
Alfreda Coward
Kenneth Fink
Robin Rorapaugh
William Scherer
Robert Wolfe, Jr.

ALSO PRESENT: Broward County Mayor Stacy Ritter
Broward County Vice Mayor Ken Keechl
Broward County Commissioner Kristin Jacobs
Broward County Commissioner Ilene Lieberman
Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Russell Rand, Member of the Public
Jean Russo, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on Wednesday, June 10, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

(This is a near-verbatim transcript.)

THE CHAIR: Good morning. Thank you. Ms. Coward, I would like to welcome you to your first meeting.

MS. COWARD: Thank you.

THE CHAIR: I'm glad that you can join us. Monica, I think we have another appointment starting today?

MS. CEPERO: Yes. He has not arrived yet. Washington Collado is Commissioner Jacob's appointee, and he will be joining us hopefully today.

THE CHAIR: I will recognize him at the end. Commission members, if I could remind you, we have four -- the Mayor and three Commissioners before us today, and we're time certain and already running late.

Mayor Ritter, thank you for being here. I appreciate you taking the time to speak with us. We have you until 9:30, so if I could give you the floor -- we have you until 10:00. I would like you to share some of your thoughts and comments and then we'll open the floor for questions from the Ethics Commission members'.

MAYOR RITTER: Thank you. Thank you for inviting me here this morning to share my thoughts and spend a few minutes with you. Thank you, by the way, for agreeing to serve on this Commission. And I look forward to seeing the report when it is complete. Couple of things. I will be brief because you are an independent Commission; the voters approved you in the Broward County Charter and I don't think that's my --

VICE CHAIR SCHECHTER: Excuse me? Is your microphone on?

THE CHAIR: I don't think so.

MAYOR RITTER: Is it on now?

THE CHAIR: We have extra mics there, Monica.

MAYOR RITTER: Am I being picked up on there?

THE COURT REPORTER: You are --

MAYOR RITTER: If you can't hear me you'll read the minutes. Is that better? Thank you. I'm just going to share a couple of thoughts with you, and again, I look forward to reading your report when it comes before the County Commission, when you've completed your work. Two things. First of all, I know that there has been some discussion at the Board of County Commissioners with respect to political and campaign contributions and whether or not they should be banned; I don't support that. I think that one of the greatest things that I can do as a Broward County Commissioner is to raise money for charities that are important to the people who live here in Broward County, and to help the candidates that I believe should be elected to office. Especially now, when so many charities are being hit so incredibly hard, that for someone to call me up and ask me, I would like to be honored, and if they can put my name on the invitation and send that invitation to a whole bunch people, what I may contribute to that cause, I don't think it's a bad thing. I think it's a very good thing, and I think it's very positive. And I hope that as you deliberate you will take that into consideration. That is my "soap-box," on campaign and political contributions.

Secondly, I think that one of the best things that this Commission can look to do is look to educate the public about ethics as it relates to elected officials. You know, I sit here today having been in the "cross hairs," for the past four months; the press has latched onto me like a "mosquito after a rain storm," in South Florida and they haven't "let go." And the public believes that I have done something wrong because of the way the press has written what they have written about me. I haven't done anything wrong. And when I asked the reporter if he had read the House rules related to my activities in the legislature, his answer was no, I haven't. And I said, well you know, there is not just

a State Statute that dictates my behavior, there are House rules as well; are you going to read them, the answer was no, I'm not going to read them. So unfortunately, the public has gotten a skewed story as it relates to my behavior. And I think that one of the things that this Commission can do is educate the public about what is right and what is wrong with respect to elected officials behavior; whether that means putting together some kind of pamphlet -- for lack of a better word -- not just for the public, but for elected officials as well, that delineate the difference between a State Statute and a County Ordinance and a Municipal Ordinance and a House rule and a Senate rule and what goes on at the Federal level, which is different than what goes on at the State level. The public really isn't aware of what it is we can and can not do, and why we can and can not do it, because they only get it through the media. And if we can talk directly to the public, which is what I'm doing a lot of these past four months -- and if you can do that by educating them, by putting out something that shows what is right and wrong behavior, what is dictated by State Statute and what is not; I think that that would go a long way towards helping the public understand what elected officials do, why we do it, and how we do it. So that's it for me.

THE CHAIR: Do the Commissioners have questions for the Mayor?

MR. WOLFE: Yes. We had a couple of Commissioners in the last meeting, and we discussed the topics such as gift bans, lobbying within the jurisdiction of the County; do you have any thoughts on that, about if we should ban lobbying for County Commissioners in other jurisdictions within the County? (Inaudible.)

MAYOR RITTER: For me my biggest issue is the political and campaign contributions. Whatever else this Commission chooses to deliberate and put before the County Commission, I'll look at it at the time. I really don't have any thoughts one way

or the other. I mean, I don't take gifts. You know, if I go to a concert I pay for the ticket. If I'm offered a ticket to a Marlins game, I pay for it. On the other hand, if someone brings me a mug that says, VISTA on it, VISTA Healthcare, it's a mug. I don't think that that's going to -- gee, when it comes time to vote for the health care contract I'm not going to say, wow, they gave me a mug. So I think the gift ban, as the legislature did it, is way over the line. If someone who does business with the County wants to hand me a bottle of water -- to pay a "buck 50," for that, I will, if that's what you guys want us to do, I'll do that, but I don't think that determines how I'm going to vote. I think the public perceives it that way. I think the biggest problem this Commission will have is changing public perception. Your Chair and I had a conversation last week when he came to see me, and we talked about public perception, and you can't mandate how the public is going to perceive what we do. We can try under the rules, living under the rules, to show the public that we're not doing bad things, but they're always going to believe what they're going to believe no matter how hard we try to say otherwise. And I'm not sure whether the gift ban helps or hurts that public perception.

MR. WOLFE: Do you think it's proper for a County Commissioner to lobby a city within our County's jurisdiction or a private individual or company within this County?

MAYOR RITTER: I can only tell you that I don't have any outside employment, and I don't intend to have any while I'm a County Commissioner. Although I know that we're defined as part time, neither the Charter or the Statute really tell us whether we're part time or full time, so I consider this -- although I'm licensed to practice law, and I have had offers from law firms to join them, I just don't feel comfortable for me having outside employment. I can not dictate others behavior; you can. and so can other ethics

and elections commissions, and the legislature can. I just don think it's my place to do that. We have had this conversation on the County Commission a lot lately and I think Commissioner Jacobs said it best, when she said, look you know, you may do something but you know, and you know what you're doing is right or wrong, you just do. You just know. And I think that's for others to decide their own behavior. I don't think that's for me to decide. I'm not the "morality police," and I'm certainly not one to put myself on a "soapbox," and dictate how others should and should not behave.

MR. FINK: One of your colleague's suggested that the County Commission should not sit on Selection Committees when you get to procurement issues, because that means that the staff could possibly be influenced by having a Commissioner sitting on the Selection Committee. And as I understand it, correct me if I'm wrong, every Commissioner could vote themselves onto every Selection Committee if they so desire. How do you feel about Commissioners sitting on Selection Committees?

MAYOR RITTER: Well, yes, you are correct. We could sit on every Selection Committee if we wanted to but then we would be here all the time. We have a lot of Selection Committees at the County, and there are very few that all of us get on. We do mostly get on the big ones that have to do with the airport or the Convention Center, that is true. But I have looked at the vote sheets from the Selection Committees that I sat on and there's usually a few staff members, and sometimes there are more staff members than Commissioners, depending on what the Selection Committee happens to be about. But looking at the vote sheet I don't believe staff is influenced or feels pressure at all by having a Commissioner sitting next to them at a Selection Committee. Sometimes the staff agrees with me, sometimes the staff doesn't agree with me, and I think that not only is it their right, but it is their prerogative. I think they do do that. So I don't think they're

influenced by our presence at all. It's interesting that you ask me that today, because yesterday at the County Commission we had an issue we discussed for quite a while. It was a Selection Committee, there were no Commissioners on it, just staff, and the Commission -- I don't remember what it was.

MS. CEPERO: I knew you would look at me. I don't remember either.

MAYOR RITTER: You know, as soon as you walk out of the building on Tuesday, you try to forget what you did that day. But there was a majority of the Commissioners, or there was a consensus that it was a very bad thing, because the decision was made, it was only made by staff, and if we had been on it, it might have been different. And maybe some of us should have been on it. There was a whole discussion about whether to send it out again, which didn't happen. But I think a healthy balance of Commissioners and staff is a good thing for a Selection Committee.

MR. FINK: You don't think it creates the perception within the public eye that Commissioners are trying to influence staff when they voice their opinions?

MAYOR RITTER: I think the public sometimes perceives that just when we step foot in this building we are doing bad things, and I think that sometimes it often doesn't matter what we do, the perception is the perception, and trying to undo the perception is an extremely difficult thing to do if not impossible.

MR. SCHERER: With respect to procurement and selection or other -- Commissioners -- some Commissioners that are more knowledgeable about certain areas than others -- and do you guys try to specialize at all? Like in Congress the people on the committees in Congress are very knowledgeable about the subject matter or the issues and they don't bring a stranger in to make a big decision. And I'm a just wondering has anybody ever talked about that in terms of trying to get areas of expertise with the

Commission so when they sit on an Selection Committee they know a little about the process and what's going on?

MAYOR RITTER: Mr. Scherer, are you implying that we are not all experts on every issue in the County Commission, or are you saying that openly?

MR. SCHERER: Or think you are? (Inaudible.)

MAYOR RITTER: I understand what you're saying. Ah, there's the rub, huh? When I first got here two and one-half years ago, the Mayor would appoint a Commissioner to be the liaison to a specific area. My first year I was airport liaison appointed by then Mayor Eggelletion, and then Mayor Wexler appointed me financial services internal services liaison. I chose not to do that this year; because I didn't think that we should necessarily be pegged. But I think that we tend to gravitate -- become experts or more knowledgeable in those areas that are most interesting to us. For me I chosen to focus on the airport, because I think that is one of the neatest things we do in Broward County is run an airport, so I sit on all the Selection Committees for the airport and I make sure that I speak to the aviation director and get involved in their issues in more depth.

MR. SCHERER: Your other colleagues' -- doesn't everybody sit on --

MAYOR RITTER: Sometimes.

MR. SCHERER: Did you ever do anything to the airport that you don't have 100 percent of the Commissioners involved in?

MAYOR RITTER: Rarely. But it's a potentially multi-billion dollar -- it is a multi-billion economic engine, and since we sit as the Aviation Commission, then we probably should all sit on airport things. It shouldn't just be district specific either, by the way. None of us -- this stuff should not be necessarily district specific. But again, you

know what, it's every Commissioner's prerogative, and I believe it should remain every Commissioner's prerogative to sit on a Selection Committee to be able to guide policy, which is what I'm elected to do, which is guide policy. And those Selection Committees, while they're not necessarily policy committees, they do end up on the dais on any given Tuesday at which point the County Commission, makes a policy regarding it.

MR. SCHERER: Are there rules? Does the County Commission have rules that give some presumption to the Selection Committees first choice in ranking or not or when it comes to the County Commission is there -- can the County Commission hear it move -- and I know ultimately the majority votes can do everything but the question is, is there some presumption either in writing or unwritten presumption that the Selection Committee's first selection should be adhered to unless there's some reason to the contrary?

MAYOR RITTER: I think there is a difference given to the Selection Committees.

MR. SCHERER: Not in writing but just as a policy or procedure?

MAYOR RITTER: I'm not aware of any written policy that would dictate that preference. I just know for me when an S/C -- I mean I come from -- I believe -- I give a difference to the S/C. You know when it comes to us on a Tuesday, if I didn't sit on the S/C, chances are I didn't read all the proposals, I read what was on the agenda for that Tuesday, and not having sat on that Committee having heard the proposals, having seen the presentations; for me I'm not comfortable overriding those decisions, for me.

THE CHAIR: Mayor, when you sit on a Selection Committee do you have a vote as to whether that particular vendor is selected or not, as a member of the Selection Committee?

MAYOR RITTER: Yes.

THE CHAIR: So if there is a majority of the -- or 100 percent or five or more of the County Commissioners on an Selection Committee, is there not -- short of there being a policy -- and there's not a policy -- so there is no real conflict -- but if there was a policy, wouldn't it be a conflict if five of them are selecting it, then it comes to nine of them for a vote, or in a worst case scenario nine of them are selecting them, and it comes to nine of them for a vote, it seems like it circumvents the selection process when the majority of the Commission can decide who gets selected, and then it comes to that same body for a vote; how do we balance that and say it's okay for there not to be a limit of who sits on that Selection Committee, and still say there is a separate process before it comes to County Commission for policy approval?

MAYOR RITTER: I guess I'm not quite sure I understand where you see a conflict. We're stewards to the taxpayer's dollars. Selection Committees, although they don't specifically write the check for the project, they make the decision about who gets paid for that project. And that is one of the reasons I think that County Commissioners should be involved in the selection process, because most of the time, if not all the time, you are expending tax payer dollars, which -- I don't mean any disrespect to our staff -- it's hard when they're sitting in front of you, but they're not elected to do that, we are. We're elected and we direct policy to our staff, and I have no problems with staff sitting on Selection Committees, I think that's a good thing, I think they often times delve deeper into it then County Commissioners do, but simply based on the fact that we're giving taxpayer dollars to somebody, which the County Commission is responsible for, leads me to believe that we belong on those Selection Committees.

THE CHAIR: I won't argue that some of the Commissioners don't. The conflict, in my opinion -- and that has been discussed here previously -- is that it's nothing more than a process if the majority of the people on that committee are the ones that are going to approve that contractor, that very well, as you stated earlier, be a multi-million dollar contract. So if staff is there and the majority of the vote is County Commissioners; could be 100 percent, could be nine of them; then what voice do they have other than just an exercise if it's going to get approved by one body, that Selection Committee or recommended for approval and then go to the County Commission for final approval and the writing of the check; it's the same group doing it twice.

MAYOR RITTER: But the Selection Committee has addition of staff and I have been on Selection Committees where the nine of us have sat, and we have been split 5-4 and the balance has been tipped by members, by members of the staff, not the County Commissioners. And I think that is a great check and balance to the system, if that's what you are looking for. I think that is a check and balance. Although there are times when there are more County Commissioners than staff, there are also times when there is more staff than County Commissioners.

THE CHAIR: But eventually it's going to go to all the County Commissioners for vote and they can vote it up or down at that point?

MAYOR RITTER: Yes.

THE CHAIR: Anybody else have any further questions for the Mayor?

MAYOR RITTER: Thank you very much.

THE CHAIR: Mayor Ritter, thank you so much for your time.

MAYOR RITTER: Thank you.

THE CHAIR: And I appreciate your service to our community.

MAYOR RITTER: As I do yours' Commissioner. Welcome to public life.

THE CHAIR: Enjoy.

MAYOR RITTER: Be careful what you wish for.

THE CHAIR: Thank you very much.

We're going to go to the approval of the minutes from the 5/13 meeting. Do I have a motion to approve those minutes?

MR. WOLFE: So moved.

MR. FINK: Second.

THE CHAIR: Are there any corrections that anybody has for those minutes? We have a motion by Mr. Fink, a second by Mr. Wolfe -- am I right, or the other way around? We got two. All in favor signify by saying, aye. Any opposed? Same sign. Motions of 5/13/09 are approved of those minutes.

I don't know how many of you followed the Commission meeting in reference to the discussion on our request to have a joint meeting before the United States Attorney, but the County Commission has decided to table their request for the meeting for various reasons; one is that there is going to be a new United States Attorney here shortly and they didn't want to speak to one who may interpret specifically Honest Services Fraud different than the incoming, so they wanted to hold off. The question that I have for you as the Ethics Commission, is do we still want to pursue having the U.S. Attorney come before this group for either a presentation -- because it doesn't appear that they would be willing to do a question and answer. Their position, thus far to legal staff, has been that they don't provide legal counsel, legal advice, so they could give us a spiel of how they perceive this, and what they believe the law to be.

MR. WOLFE: Do they do that?

THE CHAIR: Rob, do you have anything to add to that to clarify?

MR. TEITLER: That is the situation as I understand it. Right now the former U.S. Attorney left and is now the dean of the FIU Law School, and there is now an acting U.S. Attorney. How long that person is going to be in that position, there's no way to tell. If we were anticipating inviting the U.S. Attorney sitting for the Southern District, I don't know if you want to invite the new one when he ultimately is appointed by the President or the acting U.S. Attorney.

MR. SCHERER: Who is the acting?

MR. TEITLER: I knew his name. The second in charge. I think the chief of the Criminal Division, Jeff Sloman.

MR. FINK: Well, they work together. So I don't know who that individual was that initiated that particular agenda.

MR. FINK: But the perception of -- the way the law is being interpreted now (inaudible) comes from the gentleman who is now the president of FIU, or did it come from the current acting U.S. --

MR. TEITLER: I would assume it would have come from the former U.S. Attorney, Acosta, because he was the one who was the sitting U.S. Attorney at the time those matters came about.

MR. FINK: My question would be, can we get him?

THE CHAIR: We just got word that Vice Mayor Keechl is coming in. We'll stay on time for that. We probably need to pick this up again later. What we need to finish is, do we want to invite whoever it is that is sitting now or do we want to table the matter until they appoint a permanent? Mr. Scherer.

MR. SCHERER: I think we table it permanently. The interpretation of the Honest Services Law comes from the courts. Prosecutor's just one side. I mean, if you have the prosecutor come in we ought to get a really good -- Roy Black to come in on the other side, and give us the other side's view of what they think the Honest Services Law is all about. And ultimately it's the courts. If we really want to get it we ought to get Bruce Rogow -- who I thought would we were going to get on this Commission -- to study the law and come in and say, here's what the law is on Honest Services, or obviously the County Attorney's office can do the same thing. Because that is really what it is. I don't see any benefit by having -- they're not going to tell us what kind of cases they're going to prosecute anyway. If we really want to know about Honest Services Law, get the best lawyer that we can get to interpret the Statutes and what the courts are saying about it, and talk to us about that.

THE CHAIR: If anyone is interested, on the 17th, FAU Public Ethics Academy is doing a seminar, and Bruce will be speaking there on --

MR. SCHERER: On Honest Services?

THE CHAIR: Yes.

MR. SCHERER: We ought to all go to that or get a tape of that, and look at that.

THE CHAIR: I will be there. So if there's any information to collect I will. Ms. Coward, before Vice Mayor Keechl comes in.

MS. COWARD: I was going to say something, but now Mr. Scherer made -- I do agree. I think -- I like the idea of having information. I don't think it needs to be particularly a prosecutor that presents it, but just have someone knowledgeable in the area of law to provide that information to us. And I was going to ask a question about when

the incumbent would be sitted. I know they have the interviews in July, but I wasn't sure how soon thereafter. But we don't know?

THE CHAIR: Well, that July meeting we have Norm Ostrow coming in, we have Mark Karen (phonetic) coming in, and also we added a gentleman by the name of Robert Meyers, who is the Executive Director of the Dade County Ethics Commission, come in and speak as well that same day. So they're all pretty knowledgeable in this area. Howard.

MR. BAKALAR: I agree with both parties so far. But I also want to thank Monica and Rob for their back-up, because again, reading what you sent, how many folks are walking down the street and suddenly got prosecuted for jaywalking; it was pretty clear and the back-up shows clear knowledge.

THE CHAIR: And again on the 17th; the Palm Beach County Commissioners' defense attorney will be there as well. It's a good panel that will be discussing Dishonest Services. Monica, can you forward that email again? I'll have Monica forward it to everybody.

Vice Mayor Keechl, good morning.

VICE MAYOR KEECHL: Good morning.

THE CHAIR: Thanks for being here. I appreciate you taking the time. Vice Mayor, we are time certain, so we have until 10:30 for your time, and what I would like you to do is just open the floor and have you share with us your thoughts and concerns as they pertain to the Broward County Commission and Ethics, and then I will open the floor for Commission members to ask you any questions they may have.

VICE MAYOR KEECHL: Great, Commissioner. I appreciate everyone. I want you to remember, I'm voluntarily here, I wasn't subpoenaed. Where's my appointee? Bob, I'm looking all around.

MR. WOLFE: Right here.

VICE MAYOR KEECHL: Bob, I was missing you. Good to see you again. I'm looking over here to see who is missing. Well, I appeared originally before the Charter Review Commission and at that time I spoke in favor of putting this on the ballot, the creation of this organization. My concern at that time, was that I wanted it to be a collaborative endeavor, because I believe then, and I believe now, that whatever this body suggests, if it's not agreed to by the County Commission, will be adopted by the voters, the people of Broward County; the people of America, are clamoring for ethics reform, whatever that means, and it's a very sexy topic. And so unless you came up with something that was just so absolutely crazy, I think that you'll see a 70, 80 percent yes vote. So I say that because the way this process is working is as the Ethics Commission you're going to, as I understand it, come up with a number of suggestions, and I had a concern then and maybe now -- I guess we'll see what the work product of this group is -- that if there was one controversial item and ten necessary of the let's say non-controversial items, that when it got to the entire County Commission you might have a problem getting a majority vote. And it would go onto the ballot and will pass. So I can't really remember exactly what I was really so concerned about at the time, but I'm glad that you guys are looking into this. My major issue -- I have two major issues, and the first one recently came up, it wasn't an issue until it was brought up by one of my colleagues, and that is the suggestion that it is inappropriate for County Commissioners to raise money for other candidates or raise money for charities. I have gone on record

opposed to that. I understand somewhat the rational for it, but I think that it's mistaken and I think it would be controversial. I believe I have first -- first of all, I believe all nine County Commissioners and probably most everybody in this room has at some point exercised their first amendment right to raise money for candidates who share their values. And I would hate to think that I lose that right because I'm a County commissioner. I have raised money for all kinds of candidates and issues. I was opposed to Amendment 2, for example, and I think that the idea of taking away that right from me is troublesome. Also -- and I don't need to spend a lot of time talking to you about the economic environment that we're in, and County Commissioners have the ability to raise money for charities; whether it's Jewish Federation, you know all the charities, so I think that would be mistaken as well.

I understand the genesis for the concern that was raised by one or more of my colleagues and that is the appearance of impropriety. I would suggest to all of you that if we're really trying to get rid of the appearance of impropriety then why are we taking campaign contributions. It's the same thing. I know what is right and wrong is wrong. And so I know what is appropriate and what is not with regard to when I take a campaign contribution. So don't I know it when I'm raising money for a charity -- or the issue that I don't -- that's important to me.

The second last issue is I think this group should look -- and I don't know the answers -- to some kind of strengthening of the penalties for non-compliance by lobbyists in registering. We have a book outside, you know, if you go look at it half the time you can't read who was here, and I believe that to be intentional or not -- I haven't studied it -- but I do believe that there probably is a problem with lobbyists not registering and lobbying. And I think their needs to be some kind of penalty that makes it very -- makes

it a negative result if you violate the lobbying requirements, because I think the people have a right to know who's coming into the County Commission and lobbying. And I think they have a right to be able to look at the list and see who the lobbyists are for every one of the entities that are coming before the County Commission. So those are my two issues. And obviously I'm open to discuss everything.

THE CHAIR: Any questions for the Vice Mayor? Ken.

MR. FINK: Commissioner, thank you for being here.

VICE MAYOR KEECHL: Thanks.

MR. FINK: How do you feel -- one of your colleagues brought up the issue of County Commissioners sitting on Selection Committees (inaudible) what is your position --

VICE MAYOR KEECHL: Ken, that is a good question. I have been in office for two and one-half years, and I never held office before. Honestly I don't even think I knew what a Selection Committee was before I got elected. And so as I'm sure you all know, every County Commissioner has the right to serve on any Selection Committee and apparently as I remember it, there is an Ordinance in place that says up to three staff members can also serve and have a vote. And the reason I know that is because during my first year of elected office when Pam Brangaccio was the County Administrator, every so often there would be two or there would be four, and someone would bring it up, and I remember looking it up. I think the Selection Committees serve an important function. Remember something, all nine of us were elected by the people of Broward County to make the decisions and we're talking about contracts and attendant policy. Generally policy isn't made at the Selection Committee, but it does play -- it does come into effect, and I can give you examples if you want later. I have had a problem with

staff members being on the Selection Committees. Originally my position would have been the first six months why are they on the Selection Committees, they weren't elected by the people of Broward County to spend the taxpayers money; we're the ones that either get re-elected or thrown out of office for making bad decisions. But I learned over time that they serve a valuable function. Generally the three -- and it's almost three, by the way, the three staff members who are on the Selection Committees, have some kind of expertise, I wouldn't say all three of them do, but if you're dealing with a port issue you'll see the Port director. It used to be if you were dealing with the airport you would see the airport director; he made a decision not to get on the Selection Committee so that he can talk to us without violating the Sunshine law. So I think that while I find it interesting that three people who weren't elected by the people of Broward County, actually have a vote, I think that their comments sometimes are insightful and they help us on issues that we wouldn't understand. Remember the Selection Committee is just like everything, it's only as good as the people that are willing to do the hard work. We're provided with lots of information to read. So by the time we get there we are probably pretty knowledgeable about the topic, but it's always nice to have, I believe, somebody who is very knowledgeable about the issue. So I don't have a problem with them being on, I think they're on by Ordinance --

MR. FINK: Staff?

VICE MAYOR KEECHL: With Staff. With the three staff members.

MR. FINK: My question refers to Commissioners.

VICE MAYOR KEECHL: I see what you are saying.

MR. FINK: You go ahead, because you put it very well.

THE CHAIR: When the majority of the County Commission can appoint themselves to a Selection Committee and then push that forward to the very body that you sit on, nine can sit on an Selection Committee, make a decision to award a contract to a vendor, then it comes back before them, a week or a month later, and that same body is voting; do you see that as a conflict?

VICE MAYOR KEECHL: I see what you are saying. No. Not at all. First of all -- interesting.

MR. FINK: Are you going to vote against yourself?

VICE MAYOR KEECHL: Here's how it works. First you have to figure out what we're really doing here. Remember, the people of District Four elected me for better or for worse to make these decisions. So I strongly believe that they would be kind of shocked if they realize that there were three voting members who weren't elected. So I actually see it a little differently Ken, than you do. I think it's kind of strange, you can make the argument, what are these unelected people doing on a Selection Committee. And I'm saying, I don't have a problem with it. Here's the issue, it's not written anywhere, but there is a -- before I got elected one of my colleagues told me this, there is a general rule -- and all rules are made to be broken -- but there's a general rule that if you care about that topic, get on the Selection Committee, read all the information, go to the presentations ask your questions, listen to your colleagues questions and then vote up or down, one, two, three if it's RLI or if it's a point system or with a point system if it's an RFP. When it gets to the Commission, the unspoken rule is that the Selection Committee are the experts. Ironically -- and Commissioner, you're absolutely right, the nine could overrule the 5, 4, 3, 2, or the 0 Commissioners on the Selection Committee, but the unspoken rule, the unwritten rule is that won't happen. In two and a one-half years -- I

watched this, but it's still all new to me, in two and one-half years, I can't remember one time that the entire Board of Commissioners overruled a Selection Committee; although yesterday we had an attempt to do so for the first time in a while. So I think that my colleagues understand that you know, let's use me, if I sat on every Selection Committee I would not have a personal life at all. So it's kind of strange to think that I wouldn't spend the time to do the hard work to go to the short-listing and the presentations and to read the stuff, and then I get on the dais and I have a small item outlining what is going on and I try to overrule it. I have -- yesterday we had an item that had no County Commissioners on the Selection Committee, had three staff members, they ranked -- it was something dealing with traffic devices and intersections -- how soon we forget -- they ranked and there was a move to thwart the process, and have the second ranked company get the contract. And I thought that was the wrong thing to do. I'm not an expert in the area, because I didn't spend the time reading it, so the majority of the Commission did the right thing. I don't think there is a conflict there. To me the issue is, I'm surprised we don't hear more arguments, what are non-elected staff members doing on the Selection Committees and getting a vote. But the only time anybody has every, other than yesterday, the only time I can remember an attempt to overrule a Selection Committee would have -- was when Commissioner Jacobs -- she's not part of the insurance Selection Committee, and so she doesn't know about the insurance as well as the rest of us who sit on it, and when it came to the dais, she said, I'm not on the Insurance Committee, and I feel a little uncomfortable since I don't know everything, but this affects me personally, because I get insurance from the County. So we had a long discussion about the rationale of the majority and that instance. So I think the system works. And I don't see it as a conflict at all.

THE CHAIR: Mr. Wolfe.

MR. WOLFE: An issue that concerns me personally, but I think it does a lot of taxpayers too, is what is your thoughts on colleagues that are employed as lobbyists that do business representing private clients or in front of taxing districts or authorities within our County?

VICE MAYOR KEECHL: That is a good question. And for the record, we have not discussed this, you and I. That's why I came to -- I remember now -- that's why I came to the Charter Review Commission. I was concerned about that. I think that it is inappropriate for a County Commissioner, in my view, and this is just Ken Keechl's view -- and it's your view, and the people of Broward County's view, so be it -- I think it's inappropriate for a County Commissioner to be lobbying cities within Broward County. There is a perception. Maybe it's legal right now, but there is a perception. Because the 31 cities within Broward County come to the nine of us. We have oversight authority generally with regard to land use and they need a lot of things from us. So I find that to be problematic. With regard to other taxing entities I don't have a problem -- do you have an example?

MR. WOLFE: School Board or --

VICE MAYOR KEECHL: I don't -- I really don't have a problem with the School Board. I haven't really thought about it. I really thought about the cities because the only issue I ever heard raised is, Keechl, do you think a County Commissioner should be able to lobby cities, and I'm like, no, I don't think so at all.

MR. SCHERER: Hospital District?

VICE MAYOR KEECHL: Hospital District. I guess the issue would be -- I guess we give money to the Hospital Districts voluntarily, even though they're independent taxing entities, right?

MR. SCHERER: They think they earn it.

VICE MAYOR KEECHL: Fair enough. Actually, this came up at a homeowner's meeting last night, and I said, I don't know enough about it to even opine, although Commissioner Rodstrom had mentioned in the budget hearing last week, why are we giving money to certain taxing entities when they haven't raised their millage rate to the max, and I thought, huh, interesting. I think it's a legitimate concern. But I really believe that the perception of impropriety, that makes sense to me, is a County Commissioner lobbying a city. Those cities come before us literally every week. I don't think that these independent taxing districts come before us very often, but I guess if they did and we were -- that's very interesting -- that could be problematic.

MR. SCHERER: Vice Mayor, while we're talking about the perception of impropriety, back to the official lobbying for charities, I don't know if you're aware that the City of Fort Lauderdale banned it because they had a couple of Commissioners that were lobbying vendors and people who were before them, and some of them on the very day of the land use issue, for a pet charity or two, and that was determined to be (inaudible) and with an obvious perception of impropriety, almost a quit pro quo, because we have had discussions about folks who actually saw it happen where out-of-towner's were trying to get a project approved and they get hustled by a Commissioner before the vote at the meeting. So the City of Fort Lauderdale passed, "thou shall not." And so I'm a wondering in terms of us whether we could kind of look at that with Cones of Silence or you know, no appearance of impropriety, including the Cone of Silence and certain

vendors with times, things like that; in order to balance the candidate, the official's constitutional right to make -- to be involved in the process, at the same time to protect against some -- what we -- a lot of us consider to be pretty bad conduct on the part of some officials.

VICE MAYOR KEECHL: I'm aware of the instance. I read about it in the paper. First of all, I think it's important that any County Commissioner would utilize stationary, resources, anything. I don't utilize my staff, I don't utilize paper, postage, anything dealing with the County Commission to assist charities or political organizations. I think it's legitimate to say, if we can't take campaign contributions in this building we should not be lobbying individuals in this building. And I think that the genesis of that regulation came from a City Commissioner going -- as I remember reading it -- into the audience and hustling somebody -- if it were true it just doesn't make a lot of sense to me.

MR. SCHERER: I saw it. I was there.

VICE MAYOR KEECHL: That's wrong.

MR. SCHERER: I almost fell over. I'll testify.

VICE MAYOR KEECHL: I believe you. I haven't seen any of my colleagues -- and I haven't -- ever try to raise money for a charity or a political position or candidate on government property and -- sure, I think that -- I never thought about it before, but the idea that there's some kind of period of time, you know might be reasonable, because it might be a way of balancing the elected officials' Constitutional Right with the public's right for it to have the appearance of propriety with regard to individuals and entities that are doing business with the County. Good point.

THE CHAIR: Mr. Wolfe?

MR. WOLFE: When we bring up suggestions for time limits or lobbyists registration penalties and things like that; do you have any thoughts of how we enforce those?

VICE MAYOR KEECHL: Monetary or banning. You mean how to find out they're violating it, or how to --

MR. WOLFE: I'm aware of the instances where -- because I watch the Commission meetings as part of my position, but where lobbyist are in the building and they're not registered until after the fact, and they sort of blow it off because he's going to go down the road and challenge them, but what type of -- do we have some kind of enforcement authority? Are we tied to State law? Who finds people? Is there a Penalty Commission or an Ethics Commission that --

VICE MAYOR KEECHL: I don't know the answer to that, Mr. Wolfe. Ironically I never knew that was happening I think I saw it happen within the last month and that is what made me think about -- with knowing that I was coming here in June. If it's a more widespread problem then I realized, then you guys really need to be looking at it. How do you enforce inappropriate contact with a Commissioner, because really you would have to have the Commissioner say, I was lobbied by so and so.

MR. WOLFE: Because I don't know either.

VICE MAYOR KEECHL: What I was going to say -- this is really interesting. You could have some kind of disclosure requirement placed on the Commissioner with regard to the contacts, but that becomes really problematic because there are lots of lawyers and lobbyists that talk to us every day about lots of things. You know, I have an open door policy. I will talk to anybody about anything. So if I had to report every time I had to talk to a lobbyist or lawyer or you know, it would be very problematic. You

know, you could have some mechanism in place where you could create a Commission of some sort that investigates complaints of lobbying violations, and you could have an anonymous system. I mean, you guys have to figure it out, I haven't figured it out, but if you're accurate, and I think I know of at least once instance, then I think something needs to be done about this. The people have a right to know who is lobbying us and if they're not registering, or they're registering late, we need to figure out how to stop it, how to recognize how it's happening and how to stop it. Because there is nothing wrong with lobbying, but there is something wrong with not disclosing it.

MR. SCHERER: Two points and I'm almost done I think. Number one in the quasi judicial area with the County Commission -- I don't know if it's case law or the Statute requires them to disclose who has talked to them on the issue, and they all do. So that might be a procedure that officials could have to start recording so they would say before they vote, I have talked to so and so and so, just like quasi judicial; that would be one -- and I believe that's State law, by the way, in terms of what took those land use issues as quasi judicial proceedings, which is sort of like a court and sort of not. And the other thing is that -- it's interesting -- I have been hearing that lobbyists don't write well and you can't tell by looking at the book for years, including mine, and I don't write very well either when I'm over there. But how hard would be it to have the lady behind the desk type into the computer who they are and what they're there for? I mean, you know, how easy could we handle that, and then have the guy or gal sign it? Seems like that would be easy to handle.

VICE MAYOR KEECHL: Let me respond to that. I actually have thought of having a computer system -- because you're right, you can't read the handwriting half the time, and I don't think it's always unintentional. And you just made another point. I was

focusing -- because I haven't thought about how to do it -- I was focusing on who did you meet with and when and where. That would be problematic, but it's not -- Mr. Scherer, you're absolutely correct, it's not impossible for us to say -- for you to put in place a rule that says, when a lobbyist has contacted you, you will disclose it. The problem is the time, place and where, but I could file a form that says on Agenda Item 14 I was contacted by Mr. Scherer, Mr. Poliakoff, Mr. Blank, and then they would probably have to abide by the registration requirements because they would be caught.

MR. SCHERER: If you started doing that they would be sure to write it in the back.

VICE MAYOR KEECHL: And that wouldn't be too difficult for us.

MR. SCHERER: Beforehand.

VICE MAYOR KEECHL: Right. I would not be opposed to that.

THE CHAIR: Any other questions for the Vice Mayor?

MS. RORAPAUGH: Vice Mayor, are the lobbyist registrations online now?

VICE MAYOR KEECHL: I believe -- yes. They're online. If they're up to date, they're online, but which lobbyist has met with which Commissioner is not online, you have to go -- as I understand it -- walk to the front desk, look at a book and try to read the handwriting.

MS. RORAPAUGH: Are businesses penalized at all for hiring lobbyist that do not file, that do not disclose that they are lobbying?

VICE MAYOR KEECHL: I don't know the answer.

MS. RORAPAUGH: Is there “sudden death,” for that?

VICE MAYOR KEECHL: I don't know the answer to that. But again, I will say to you as the District Commissioner for District 4 and the current Vice Mayor of Broward

County, I believe it should be made more punitive when they do not do this. So whatever you do I will support with regard to that.

THE CHAIR: Mr. Teitler, can you answer that question? Robin, can you repeat the question?

MS. RORAPAUGH: Is there any penalty that a vendor pays in essence if they have lobbyists working on their behalf for County contracts, sales, et cetera, et cetera, and those lobbyist are not registered?

MR. TEITLER: I'm not aware. In Statutes or the Ordinance I'm not aware off-hand.

MR. FINK: A penalty to the vendor; is that what you are asking?

MS. RORAPAUGH: Right.

THE CHAIR: Last question, Mr. Scherer.

MR. SCHERER: Commissioner, my impression is that, the whom is lobbying whom is pretty well known, that there isn't a lot of secret lobbying going on because the Commissioners won't permit it. Seems like it's just trying to get it organized a little bit so the information is available, as opposed to actual people secretly lobbying intentionally, secretly lobbying on an issue that don't want anybody to know about. I don't have a perception that much of that happens over here, do you?

VICE MAYOR KEECHL: A year ago I would have said, no. In the last year I would say I'm not so sure you're right any more.

MR. SCHERER: If that is so then my opinion is we ought to really clamp down on it.

VICE MAYOR KEECHL: And by the way, there have been sporadic reporting in the legitimate media and the illegitimate media of unreported lobbying.

THE CHAIR: Vice Mayor, would you close with any final thoughts or comments?

VICE MAYOR KEECHL: Well, first of all, obviously, I want to thank you for allowing me to appear. I just want to reiterate that I supported the creation of this body and I still support it; I'm absolutely convinced that if this is a collaborative process that we won't have to go to the voters, that my colleagues as a whole, and I, want to do the right thing, we do. And I personally will consider it a breakdown in the process if this has to go to the voter because that means somewhere something went wrong. And for right or wrong you are all appointed by us and so we have faith in you individually and collectively. And so I'm looking forward to seeing what you guys come up with.

THE CHAIR: Thank you very much. Thank you for your time.

VICE MAYOR KEECHL: Thank you. I appreciate the time.

THE CHAIR: Commissioner Lieberman, welcome.

COMMISSIONER LIEBERMAN: Thank you.

THE CHAIR: How are you this morning?

COMMISSIONER LIEBERMAN: Hi.

THE CHAIR: Thank you for joining us.

COMMISSIONER LIEBERMAN: You're welcome.

THE CHAIR: I appreciate you taking the time to be here.

COMMISSIONER LIEBERMAN: My pleasure. Thank you.

THE CHAIR: Commissioner, we are time certain for you until 11:00.

COMMISSIONER LIEBERMAN: I don't think I'm going to take that long.

THE CHAIR: That's okay. What I'm going to do is open the floor to you, to open with comments, and then I will open the floor to the Commission.

COMMISSIONER LIEBERMAN: Thank you, Mr. Chair. The first thing I want to say to all of you is simply because the voters decided to create your Commission, don't be like the legislature, don't think that you have to do something if there's no need to do something, but if there is a need to do something do it. What I was going to talk about is some general rules if you think that there are some gaps. First of all, please don't adopt Chapter 112. There are people in the legislature that honestly don't believe this. Truthfully Broward County is still one of the 67 counties in the State and Chapter 112 applies whether you adopt it or not. So there are some governmental entities that have adopted 112 and it makes no sense to do that because that will apply no matter what you do.

Secondly, the other thing that you want to think about is there may be gaps in 112; look to see what 112 doesn't cover and if that's an issue. So for example, I know that you focused on the Commission, but we're not the only people in County government, there's only nine of us.

As a general rule Chapter 112 covers elected officials and appointed officials who are generally charter officers; the County Administrator the County Attorney, the County Auditor, for the most part, except for procurement staff, which is our purchasing department, they're uncovered by Chapter 112. And so you know when you're looking at issues understand the reach of 112 and where it doesn't go. Make sure that whatever you do is easy to understand. You want to avoid language -- you know the common joke is that only a lawyer could write a 2,000 page memorandum and call it a brief. Similarly we heard people talk about how difficult sometimes it is to read a Statute and know what is prohibited. And when you talk about something that is quasi criminal, as is for the most part the Ethics Rules, it has to be easy to understand, it has to be so the average

person, no matter who it is, can read it and know what the prohibited conduct is. It shouldn't be a guessing game. Make sure it makes sense. Think about things in terms of, is this really going to resolve an issue or is it really a non-issue. And make sure that when you do it that you hit the issue that you're not overbroad in what you do. And I'll give you an example. The last Charter Commission, as you know, passed an item which went on the ballot which said if you have a conflict you have to abstain from voting and walk off the dais, you can't speak. Charter 112 just says you have to abstain and you have to file the requisite papers. Some of you are elected officials, but most of you are not, and so when I went and talked to them I said, you want to think about what your "reach," is with that Statute. And the best example I could give you -- and I don't mean to pick on you Neal, -- I'm not doing that -- but I think this will resonate. Let's say Neal lives in a neighborhood that has a homeowner's association, he's a past president, they supported him because they wanted somebody on the City Commission who understood the needs of their neighborhood; one of the neighbors puts in a request to run a child care facility from their home, it happens to be the house next door to Neal's, under 112 he probably has a conflict. Is this the kind of thing that you don't want him talking about at a Commission meeting; because all of his neighbors have parked in his driveway and said, oh God, Commissioner, this is a residential neighborhood, we don't want a business working out of our neighborhood, this is not a good thing. And the reason I tell you this story is because the current section of the Charter, which prohibits you from being able to advocate on behalf of the residents that come to see you in your neighborhood, and I don't think that is what the voters intended. The voters were looking for private benefit, they were not necessarily looking at conflict.

Felicia, I could have picked on you too. I apologize. Carl, you also. The three of you know that you got elected because people came to you and they talked about issues in your neighborhood. And just because it's happening close enough by and it's a small number of people affected, you could have a conflict. So make sure that when you're legislating you're getting to what the real issues are and you're not doing something so broad-based in a "knee jerk," reaction.

I think I talked about it, make it easy to understand, no "gotchas." Clear and concise. Two other really fast things. The Charter says that we have to avoid the perception of impropriety, okay? I will bet you I can ask each one of you and I would get 12 different opinions from people; perception is a real difficult thing. The closest you get to perception are the obscenity cases and the courts have uniformly held that a standard that says, I know it when I see it, is unconstitutional. So be careful with perception issues. Howard's perception will be different than Alfreda's; they have different backgrounds, they look at things differently. Neal and Carl, your perceptions are going to be different. So if you're going to deal with perception, go back to rule number one; clear and concise, make sure you know what the issue is, make sure that you deal with the issue in a surgical manner, and be careful not to create situations that nobody would understand or would not think that there is an issue with.

Finally, and this one is kind of delicate; money is an issue for Broward County. We're $ 108 million short on our budget. So make sure what you do doesn't overburden the financial resources of the County. I can tell you the vast majority e-mails that I get, are from people who say, County government needs to reduce itself, we don't want to pay more money in taxes. And so some of you may be looking at the Miami-Dade Ethics Commission. I'm very familiar with the Commission. I represented people in front of

that Commission. It costs Miami-Dade close to $2 million a year. It's a very expensive proposition. And so if you go in that direction make sure that you don't simply take a model and plunk it down here, but you look at what the real effects are and what the impacts would be to County government in terms of cost, at a time when people are losing jobs and losing their homes. I'm asking you to be cost-conscious in addressing the issues that you address. That's it. I don't have anything else. And so Neal, you said you wanted people to ask questions, and they can do so.

THE CHAIR: Yes, please. Any Commission members have questions for Commissioner Lieberman? Ken.

MR. FINK: Just to clarify something on what you said about 112 and conflict and having to leave the dais -- and thank you for being here -- are you saying that you advocate Commissioners or the elected officials being able to stay on the dais and discuss the issue if they have some expertise or some personal knowledge, but not vote?

COMMISSIONER LIEBERMAN: No. I think what the issue is, Ken, is that in the great rush to put something in to deal with perception, they didn't think through the consequences, and so what I think that the voters will tell you is their concern is there shouldn't be a private benefit. If it's a issue where you have a conflict because you have a private benefit; you have a business relationship with someone; let's go back to the example of the house next to Neal, they put in a petition in front of the City for special exception to operate a nursery school next door to where Neal lives in the middle of his homeowner's association; as opposed to just being the house next door, and he's directly affected, he has a conflict, let's assume that he is their accountant. That's the kind of thing, that's a personal benefit; he may stand to gain, because if they get their job, he's going to be doing their accounting. Clearly, nobody thinks it's an evil that if in your

neighborhood, if something is happening in the neighborhood where you live or that impacts the people that you represent, and they come to you because you happen to be a part of a small group of people who is impacted, I don't think anybody thinks you shouldn't be able to speak and say -- or the first example for Neal to be able to say, you know, my neighbors are very concerned, we're a family-oriented neighborhood, and childcare is very important, but there are no businesses where I live. So it sort of gets into make sure that when you do this, do it like a surgeon. Think about what the problem is and go to the heart of the problem. Don't use a "shotgun," because you get unintended consequences if the "aim is too wide."

MR. FINK: So you're comfortable in your particular hypothesis that Neal should be able to discuss it, but maybe not vote on it?

COMMISSIONER LIEBERMAN: Well, he can't vote, because 112 say he has a conflict. And you can't supersede 112. And so he would have to file a form, because it's the house next door to him, and he can't vote, he has a conflict. But should he not be able to speak on that issue -- and I used it as an example to get to the first part of what I talked about, which is, be concise, get to the issue, don't be overbroad. If there is a problem think about the aspects of the problem, and deal with the problem, but don't create another one.

THE CHAIR: Mr. Wolfe.

MR. WOLFE: I have a couple of questions. With your end comments, and this is going through my mind too, with whatever we propose, or whatever we do -- and I'm not an advocate of expanded government, especially with our budgetary constraints -- but how do we enforce whatever we do?

COMMISSIONER LIEBERMAN: That is something for you all to discuss and you have an Assistant County Attorney here.

MR. WOLFE: Any thoughts?

COMMISSIONER LIEBERMAN: There are things that you can do. You can have censor requirements, you can have recommendations that people be removed from office, you can have a provision where depending on the nature of the item it's referred to the State Attorney for prosecution. I mean, you have options, and the Assistant County Attorney will talk to you about what the options are, but depending -- and I forgot one other thing.

One of the concerns that I have had with some of the State laws -- and that has been corrected in recent years, mostly with the Elections Commission, not with the Ethics Commission -- is the Election's Commission have had some strict liability kind of Statutes. Intent is irrelevant. In your "arena," I would tell you, "intent is a critical element."

MR. WOLFE: And this is with all due respect, because I don't think lobbying is a bad thing. A number of your colleagues have come before the Commission asking that we ban outside income in terms of lobbying other jurisdictions within our County -- as an acting County Commissioner, and obviously as a lawyer, and you know I lobby too for my agency up in Tallahassee -- but do you have any opinions on that, or do you think that's wise? Unwise?

COMMISSIONER LIEBERMAN: You know, I don't know that it makes any difference. This is where you get into perception versus reality. You know, for whatever reason people have singled out lobbying. What if someone is an accountant, should they not do any accounting for a governmental entity? You know, 112 deals with those issues

and it talks about there are certain exceptions for other governmental units. What if somebody is not lobbying, what if they're actively working? We had a County Commissioner who is no longer a County Commissioner, who actually was an employee of a Hospital District, permitted under State law. They didn't lobby, but they worked, and they could vote.

MR. FINK: Some of your colleagues have expressed concern about Commissioners being able to sit on Selection Committees and the potential for conflict there, because -- correct me, Neal, if I don't state it the way you do -- but if you're sitting as a body on the Selection Committee and a week later it comes before you as a Selection Committee; isn't there a redundancy there, plus a potential for conflict?

COMMISSIONER LIEBERMAN: No. Absolutely not. You have to understand the County's procurement process. And I will tell you, I'm sorry that you guys --

MR. FINK: I don't think anybody understands the County's procurement process.

COMMISSIONER LIEBERMAN: Well, some people maybe better than others. I'm sorry you weren't at the meeting yesterday, Ken, or didn't watch us on the meeting. We actually had discussion about where there was a Selection Committee, there was no County Commissioners on it, and I will tell you if you looked at the back-up as I have, I think staffed steered it to a particular vendor. It's hard for me to believe that the vendor that manufactures equipment got a lower score on the functionality of the equipment then the vendor that is going to buy the equipment form the vendor that manufactures it. And so you know, again, Commissioners I think serve a good purpose on the Selection Committees. It's checks and balances. I have seen some committees irrespective of whether they had Commissioners on them or not who haven't functioned well, and some that have. Simply because it's coming back in front of us -- I mean, for most cities

Ordinances require two readings, because you voted on it once, should you not vote on it a second time? It's a different look into the process when -- and I think what the Selection process allows to happen the way it does now where Commissioners sit on the various Selection Committees -- I have a colleague, John Rodstrom, and I would tell you, on a bond issue he's invaluable. No one understands financing as well as John does, and he lends that expertise to the County. And so when we look at procurement that has a bond issue you want to hear what he has to say. Should he be precluded from using his expertise to help the County not make a costly mistake?

MR. FINK: Do you think then there might be a better way to do it from a perception standpoint to limit the number of Commissioners that sit on a Selection Committee so that it does not become a majority of the Commissioners sitting on a committee that they're already going to vote on? So in your instance, using Rodstrom as an expert --

COMMISSIONER LIEBERMAN: Actually, I think there are some things that the Commission ought to be a Committee as a whole, because the ultimate decision is going to rest with the Commission.

THE CHAIR: Commissioner Lieberman, using your example that you perceived that the Selection Committee that had no Commissioners on it may be steered that Selection towards a particular vendor --

COMMISSIONER LIEBERMAN: I'm not the only one that has that opinion, by the way. It was hotly debated yesterday.

THE CHAIR: Based on your statement that it was perceived they steered it towards a particular vendor, some would argue that it's perceived that the majority of the Commission would sit on that Selection Committees intentionally to steer it towards a

particular vendor so that they can approve that when it comes back before them; is there not a conflict there? Why is it perceived that staff would do that, but not the majority of the Commission who would then vote on it?

COMMISSIONER LIEBERMAN: You know, I think the problem with perception is exactly how we started out; perception doesn't make it reality. You know if you read U.S.A Today, not too long ago they did a poll; the three least trustworthy professions, the least trustworthy profession is used car salesman, does that mean every used car salesman is dishonest? The second is lawyer; does that make every lawyer dishonest? The third is elected official. I mean, those are perceptions. I'm not sure they're realities. They may be perceptions. You never -- if you never sat on our Selection process, it's not as easy as you may think. There is a huge amount of back up and reading. There is a ranking system. We have a protest so if a vendor doesn't believe they're treated fairly they can protest. If they lose their protest at the County they can take it into court. There are a number of checks and balances in the procurement system.

THE CHAIR: I ask that question because I did watch the argument yesterday, but there seems to be a conflict in the interpretation. It was perceived -- and maybe expressed that -- that there was a conflict because it was staff. But how would that have changed if there was County Commissioners on it?

COMMISSIONER LIEBERMAN: Well, I think --

THE CHAIR: And the majority of them steered toward a particular vendor? One could argue it's the same conflict.

COMMISSIONER LIEBERMAN: I think one of the things that wouldn't have happened is we wouldn't have chosen -- I don't see the Commission choosing the vendor who was $1.8 million higher than two, especially at a time when we are looking to reduce

expenses in the budget. It's checks and balances. You know, you are never going to find -- and I can't remember -- Robin is better at this than I am -- someone who said, democracy may not be perfect but it's the best form we have. You know, there is going to be problems no matter what and perceptions no matter what. You will never get to anything 100 percent perfect, "good housekeeping stamp of approval," which is why when I made the comments, you need to think through these perception issues. Perception may not be reality, it may be and if it is, deal with reality, but perception may not be reality.

MR. FINK: But it's their reality.

COMMISSIONER LIEBERMAN: Whose reality?

MR. FINK: The perceiver's reality.

COMMISSIONER LIEBERMAN: Whose reality, though? Each and every one of you, I'll bet I can ask you a question, has a different perception, so whose are you going to legislate?

THE CHAIR: I don't know that that is where this discussion has gone in terms of how you legislate that. But you made the case in point there should be a check and balance.

COMMISSIONER LIEBERMAN: Right.

THE CHAIR: So if there is not a majority of the Commission there then there's a check and balance that it still has -- because one is a recommending body, and one is an approving body. The Selection Committee doesn't approve, they recommend. It could be approved or disapproved at the County level, so if there was a balance there and nine of you couldn't sit on an Selection Committee there would not be -- there is still going to be a perception, but the reality of it is, if the majority of you couldn't of steered it towards

a particular vendor, as the perception was yesterday, that because there was no County Commissioners that staff steered it towards a particular vendor.

COMMISSIONER LIEBERMAN: You know, I would tell you the counter to that is that as a general rule items that have gone through competitive procurement; be it RLI's RFP's, bids, whatever, it's rare that they are debated by the Commission, it's very rare. As a general rule, 99 times out of 100, the Commission affirms, unless it sees something really awry in that procurement process. So when you say, one is a recommending, that may be in theory, but in practice it's not functioned that way. As a general rule if it comes out of a competitive procurement, unless it looks really bizarre, it gets confirmed. And I guess the argument would be if you limit the number of Commissioners -- there have been some really contentious issues and I think it has benefited -- the majority of the Commission has sat on it -- because when it came to the Board there was greater knowledge amongst the Board about that particular issue then there would have been if only three members sat on the Committee.

THE CHAIR: Any other questions for the Commissioner?

MR. COLLADO: I do have a question. Is there a set amount of companies that make it as the -- to the Board? For instance there are ten companies that bided on a project, after the initial Commission meets; is there a set amount of companies that make it --

COMMISSIONER LIEBERMAN: I think I understand your question. Let me walk you just generally through the procurement process. Let's say staff has an RFP that they have gotten responses on; the first part of the process has nothing to do with the Commission. Staff goes through that and issues a report to us and tells us whether they have met the purchasing requirements in that competitive procurement. It used to be that

we had three areas of responsiveness that if you didn't meet them you didn't get past that; one was that you had to disclose certain types of legal litigation that impacted business oriented litigation. One was financial, you had to give some number of years of financial background, and the other was our CDBE Program, Community Disadvantaged Business, where there were goals. And so if a business didn't disclose lawsuits, or a business failed to give financials, it was deemed non-responsive and it never -- we never got to review that response because they didn't get through the first hurdle. Now those are responsibility issues. So we get to see how far afield did they go. For example, were they sued ten times and in their response they said, we've never been sued? Did they disclose nine, but missed one? So it's a different standard. Goals however are still a responsiveness issue. So if you have ten vendors and two of the vendors say, we're not doing this, we just -- we're not going to meet the goals. Staff would tell us they're non-responsive and so they never get to the next phase. So the next step would be after the staff report that looks at those issues and issues a report to us about financial and litigation, and the CDBE Program, then the next step as it comes to the Commission; and depending on the type of procurement -- I have been on procurements where the general rule is we pick the three highest checked vendors. You get to check three that you want to hear presentations from, and then staff tallies the votes, there (inaudible) and they say to us, here's the scores -- it's not numerical, so depending on how many checkmarks they got from the Commission and the staff then the top three get to do presentations. I have been on Selection Committees where we have heard six presentations, I have been on Selection Committees where we heard less. It depends on the type of procurement, the types of responses that we have gotten, and how many people were responsive. And then based on the three, the next thing that happens is there's a scoring system and as a general

rule the person who gets the lowest score is the number one ranked vendor; second highest is number two, third is number three. Staff is then directed to negotiate with vendor number one. I usually make the motion that gives them a limited time to negotiate, and the reason is because when somebody responds, their response is fresh, the financial information is fresh. If staff has to negotiate for a year, prices could have changed, and we now put a copy of our standard contract in it. So when they respond to us they have to say to us, I will or will not sign the County standard contract. And if they're not going to they have to specifically say what they won't agree to in that contract. So it shortened the amount of time staff needs to finalize. They have generally 30 to 45 days to finalize and get in on our agenda; if they don't they go right to number two and see if they can do that, if they don't they go to number three. If they can't do that then the procurement is cancelled, and we go back out. That's the general rule, but it's not anywhere in stone that it says, no more than three.

MR. COLLADO: Since we talked about lobbying and I'm completely not from the County government business; is there a limitation with regard to lobbyists on an issue that is being discussed or consented while it's being discussed?

COMMISSIONER LIEBERMAN: Are we talking about people who sign up to lobby the Board of County Commissioners?

MR. COLLADO: Right. An issue being discussed on a contract; is there a limitation in terms of the discussion regarding --

COMMISSIONER LIEBERMAN: They're two different things. The procurement meetings, the ones that you are talking about, we don't take input from the public, it's a discussion of the committee only. So whoever is staff on the committee or staffing the committee, and the members of the Commission is the only discussion. The

public -- no one does not give input at the Selection Committee process. Now, if you're going to lobby the Board at the Board of County Commissioners at a hearing you have to sign up to be a lobbyist. There is a registration form, there is a small fee, which we're adopting, to sign up. And if you wanted to speak to the Board at a Commission meeting you would need to sign a little form which we give to the Mayor and she calls. If you want to see Commissioners in their office you have to sign in, there is a log when you go to the reception area you have to sign the log, who you're going to see and what the purpose is. When that person is finished in your office, staff takes the person back out to the reception area. They're seeing someone else, they have to identify it on the log. They can't just walk down the hall and go from office to office. Does that answer your question?

MR. COLLADO: Yes.

THE CHAIR: Great. We have time for one more question. Who is up?

MR. WOLFE: If a lobbyist violates the registration or procedures what type of penalties do you think should be proposed?

COMMISSIONER LIEBERMAN: You know, Bob, I don't know them off the top of my head. There are -- someone -- that they can be precluded from lobbying for two years so if they violate that --

MR. WOLFE: Do we have current County Ordinance --

COMMISSIONER LIEBERMAN: Yeah. That says that they can be precluded from lobbying for two years, but I know that there are other penalties before that, but Rob can tell you that and walk you through. I don't have them memorized.

MR. WOLFE: Should there be a monitoring fine?

COMMISSIONER LIEBERMAN: There may be. If there isn't it's not bad idea, but he would be better than me to answer that question. The one that I'm most familiar with is they can be precluded from appearing in front of the Board for lobbying the Board for two years.

THE CHAIR: Commissioner, any closing thoughts or comments?

COMMISSIONER LIEBERMAN: Good luck.

THE CHAIR: Thanks for your time. I appreciate your service. Have a good day.

Folks, if we could pick up the conversation again and try to finalize our thoughts on United States Attorney. Let me stop a minute and welcome you, Mr. Collado for joining us. Welcome to your first meeting. We look forward to working with you.

MR. COLLADO: Thank you very much.

THE CHAIR: Back to U.S. Attorney; so far there has been some comments that we shouldn't necessarily pursue at this time, and look at hearing from the attorneys and the members, past Chairs of the Ethics Commission that have gone before us that we have some knowledge of the law and its interpretation. Any other thoughts or comments before we put that to rest?

MR. WOLFE: I guess I don't know why they would, I don't --

MR. FINK: Why they would what?

MR. WOLFE: Why they would even appear to do that. I just --

THE CHAIR: Okay. Well, it doesn't seem like it is an overwhelming willingness any way. But I just want to make sure that we either ask the County Attorney's Office to continue to pursue that for a meeting with us or we just simply say, we're done with that issue and we're moving on. And it sounds like thus far we are done with that issue.

MR. TEITLER: I would add that part of the discussion at the end of that meeting a week ago, was that the County Attorney's Office was going to prepare another document for the Commissioners relating to Honest Services Fraud, and when that is finally prepared that may be something as well that we can submit to this Commission to review. It's a more comprehensive memo with greater information than the one that was issued in January, February. So that would be an additional --

THE CHAIR: Please do. Monica, were you able to confirm the time for the 17th for FAU's Public Ethics Academy? 12:00 to 1:30, FAU Boca Campus.

MR. WOLFE: If there is a tape or a CD available of that can we get that sent to us?

MS. CEPERO: I will make the inquiry.

MR. WOLFE: Just for disclosure purposes. I'm an employee of the Property Appraiser's Office and I'm very happy to serve on the Commission, but this is on my time. When I come into the meeting I take vacation time because Lori thinks it's a good idea that I participate, but it's not for taxpayer purposes; and meeting in Boca, that is beyond my lunch hour and stuff like that, but I do want to have the information, so just for disclosure sake.

THE CHAIR: Will do. So we're going to put that to rest. We will not further pursue having the United States Attorney come before us or request to do so and we'll look forward to the in depth memorandum from the County Attorney's Office on Honest Services. Bill?

MR. SCHERER: No. That is the way to do it. And I'm on vacation too. I didn't know lawyers took vacations.

THE CHAIR: Since Commissioner Jacobs is not here if anybody needs to take a brief break, we will start when she gets here, so please make it quick.

(Thereupon, a short break was taken in the proceedings.)

MR. SCHERER: Can we get back on the record?

THE CHAIR: Call the meeting back to order. It is 11:10; do we have an update on the status of Commissioner Jacobs?

MS. CEPERO: Just that she was running a couple of minutes late, and that's all. I received that six minutes ago.

THE CHAIR: Okay. We are time certain. She has 30 minutes if she is coming, we can continue to handle other business until she shows, but whatever time she gets here the remaining time will be hers'. Do we have any other business that we would like to raise at this time?

MR. SCHERER: Yes. I would like a clarification on the missing three meeting rule; is that in the grant of our authority that was passed by the voters?

MS. CEPERO: Yes.

THE CHAIR: It's in the Ordinance.

MR. SCHERER: It's in the Ordinance. Can you tell me what the language says exactly in the Ordinance? Does that mean if you miss three meetings --

MS. CEPERO: Consecutively.

MR. TEITLER: If a member fails to attend any three consecutive meetings of the Broward County Ethics Commission, that member shall be considered to have vacated their seat and the vacancy shall be filled by appointment pursuant to Subsection B, which is through the County Commissioner.

THE CHAIR: Can we send a notice to; I believe it's Commissioner Eggelletion's appointment? That seat is now vacant, and his intent to refill that assignment.

MS. COWARD: If I may, I would suggest that before we go ahead and dismiss that person that we at least have some communication to find out that person -- if she never attended any meeting -- the reason I ask --

MR. FINK: No. She was at the first meeting.

MS. COWARD: Oh, I thought she missed the first meeting.

THE CHAIR: No. She was at the first --

MS. COWARD: Then that cures my problem.

MR. WOLFE: Motion.

MR. FINK: Second.

THE CHAIR: We have a motion by Mr. Wolfe, a second by Mr. Fink. Any other issues, Mr. Scherer?

MR. SCHERER: No. Not after they read that to me. Because it seems that that seat will become vacant and then the Ordinance discusses that they're going to appoint somebody to fill the seat, so we're going to have a "newbie," no matter what, and we'll have to just deal with it.

MR. FINK: Is there a way to preclude that? Because how do we bring them up to speed after four meetings?

THE CHAIR: Well, I don't know that we will, because we're not going to take Commission time to catch people up because they can certainly meet with staff and they certainly have access to documents, and they brief that way, but the way our schedule is we're not going to be able to go back and rehash everything that we covered over these last -- this is the fourth, correct? So we'll have to have them read the literature and then

catch up with staff. Let's hold further discussion. Commissioner if you would join us. We will get back to other business after Commissioner Jacobs. Commissioner we are time certain and we have public testimony as noticed at 11:30, so we will be pressing. We will ask you to open with some thoughts and comments and then I will ask the Commission for any question they may have of you. Thanks for being here.

COMMISSIONER JACOBS: You're welcome. It's my pleasure to come talk to you. And welcome to your newest member, my appointment. I first wanted to talk to you about some of the issues that I thought should be addressed by this Board, and then some of the issues I think ought to be left behind and my reasons why, and I will try to be brief, because I know you are on a tight timeline.

The first thing is that -- I have watched lobbyists sit in the audience in the Broward County Commission chambers, during hotly debated items, that will pick up their cell phones and text Commissioners, I've watched Commissioners get the messages, I watched them take phone calls from lobbyists in the audience, then walked out of the room, called them, and the Commissioner left the dais. To me that's completely inappropriate behavior. If you're going to get a phone call or a text message from a lobbyist then it ought to be printed out and passed out around so everybody can see what is being said. You can often feel -- or sometimes -- I shouldn't say, often -- it has occurred where I felt that I'm not debating an issue with my colleague, but with some lobbyist that is constantly "feeding," things. And it's okay if that is your source of information. I'm not saying you can't talk to anybody. What I say is that I think it's inappropriate for stuff to come across the dais, and we and the public ought to be able to see -- and I think that is what all of the ethics "hoo-ha," is about, is transparency. They want to see who is talking to you and what are they saying. And if they're coming

through the gate of the County building then who are they, who do they work for, who do they represent, that chain. That is what the public really wants to see. So I would love to see you all address that as some issue, some way that we handle it. Some Commissioners do their private work on the dais. I don't think that is appropriate either. And I would think that there is some way where we need to keep our eye focused on the issues at hand before us, and that is the County Commission's business, not our private business. Not to say that we don't need to make a living, but I don't think the County Commission's dais is the place to do it. And I know those are very strong words, but I feel that it's the perception that certain -- the actions of certain Commissioners are all "painted with the same brush." And I think it's troublesome for the integrity of the Board and for the way the public views us, because they need to have confidence in the County Commission, they need to understand what's going on and what is not. And very often it's very titillating some of the issues that go on for the press to "spin it," in such a way, and I think we're all not served well by that, both those that are serving on the County Commission and the public who is viewing, because then they don't feel good about their government. Overall I think the County Commission is doing a really fine job. I think these are isolated incidents that occur once in a while that need to be reined in, and without a group like this saying it needs to be done, or more public introspection into it, I don't think that it actually happens. So those are just two of the top issues that are in my mind, changes that need to be made.

One of the things I would love to discourage you from putting into place, and that is there has been a proposal recently to disallow the County Commission from any fundraising for charities, not-for-profits and for others who may be running for political office. I think that is the wrong direction to go. I'm not even sure if it's constitutional to

tell us that we can't raise our voice or monies outside of our jobs as County Commissioners for charities or for other candidates. I know of several candidates that I believed in strongly that ran for office. I helped them get elected and they are -- one of them in particular, two of them up in the Florida Legislature, now that are just "shining." And I'm so proud of the work that they're doing, proud that they're there. And I think that that voice that I have and those who respect it or not, for whatever degree my voice was lent to their campaigns to help, I think it was a good thing and we shouldn't be precluded from doing it.

As far as charities go, charities are not being funded by government in the ways that they used to. They're not being funded by private corporations to the "tune," that they used to be. They offer a huge service to this community. They make up a big gap in services that we can't afford and that are simply disappearing from the community landscape; so to say to us that one of the issues -- groups that I'm very involved in is Women In Distress, to say that I can no longer help them or attend functions or dinners or bring attention to them and encourage others to buy tickets to their dinners to help them raise money to fight domestic violence in this County; that's something I really hope you don't take my voice away and ability to do that. It's a very important project to me. I'm very involved in helping S.O.S. Children's Village and other charities out there, another would be the Library Foundation; I was active in their last fundraising effort, which was hosting a dinner in my home, God help me, 30 people sit down, three course. And we did it, and so did 26 families around the County opened their homes and cooked these dinners for authors and all the folks that came in and bought tickets and they raised a lot of money for the Library Foundation, which is important if you look at what has

been happening to libraries budget; we have been cutting heavily in two places the last two years and this year doesn't look any different, that being parks and libraries.

So where government is falling short we need to be able to find those ways to help them raise money. In my opinion I could be off base, but I don't think the public is really burning to know or worried about the fact that I'm raising money for the Library Foundation, or Women In Distress, or S.O.S. Children's Village; what they want to know is how am I doing, where is the transparency, am I benefiting some way personally from these initiatives, and keeping the process transparent is where I think your focus ought to be. If there's any way that we can help the public see what it is we're doing, and see who we're doing it with, I believe that is where public confidence is either restored or taken away. It's the darkness. It's not understanding what is happening that causes the public to start to lose faith. So I guess that is kind of it, and I know we're rushing for time.

THE CHAIR: Mr. Fink.

MR. FINK: Thank you for coming.

COMMISSIONER JACOBS: You're welcome.

MR. FINK: A few of your colleagues have brought up the question about Commissioners sitting on Selection Committees, which creates the perception at two levels that they're selecting the vendor making that decision during the Selection Committee process and then coming back a week or two weeks later and voting on something that they already voted on; so does that not create a perception that it's being skewed before it even gets to the Commission for a vote?

COMMISSIONER JACOBS: It's a great question. When I was first elected I was on virtually every Selection Committee there was, because I picked them up from my predecessor, and it didn't take me long to realize that they were "time eaters," and they

were going to eat up a lot of my time. So I created a series of personal benchmarks for when I would not serve on an S/C. And you won't see me on that many of them. So my experience is a little bit different then some of my colleagues who are on every S/C. I have seen votes made numerically to skew a contract to go one way or the other over the 11 years I'm on the County Commission, so I wouldn't say that that never happens; however the way that the Selection Committees are structured, there are enough folks voting that that rarely happens. I do have a concern that we don't go the opposite direction, and that is to take Commissioners off and out of the Selection Committee process and simply put us at the dais. If we did go in that direction, which is what they do in Miami-Dade, there are no Commissioners serving on these committees. The idea that our staff is never political, and would never steer a contract, I'm not too sure that that is true either. I think people are people; people make mistakes and have agendas. So to the degree to which we find some harmony and balancing the voices of staff and the voices of the County Commission, I think that is really important. There have been some moves to try to limit the number of staff that can serve on a committee, and I think that number is -- of staff -- which is -- was a number 3, I believe that is the number they put it to. No more than three staff. So I would think if we looked at anything it may be looking at the ratio from staff to County Commission so that if it's something very political you will find all nine of us on there, and (inaudible) because now they have to organize our time and get us all there for the S/C, and then you will only have three staff members. So there is more political weight if there were -- or elected weight on the body versus staff, or subject matter experts as it were. So trying to find the ability to balance those issues might be done through a formula -- because you will have other Boards where other S/C's -- where I have been on -- I'm the only Commissioner serving on that committee, and

then there's other ones where there's not Commissioners serving at all. So it is a broad mix, and I think it's a pretty healthy mix and the way that we go about it, I think once in a while it gets off kilter, and if there was any fix that is needed it's probably maybe needed to address the balance issue of when you do have an inordinate number of County Commissioners serving in a very desperate number of staff or subject matter experts.

MR. WOLFE: It's got brought up by some of your colleagues early on, that we should consider certain types of outside income as it relates to lobbying a law firm or lobbying other cities, municipalities, taxing authorities within our County; I just wanted to get your viewpoints on that or thoughts.

COMMISSIONER JACOBS: I wouldn't disagree that that is probably a healthy direction to go. It's hard to address this without making it look like your pointing fingers, but I do think the perception of a Commissioner going to a city and advocating for a client, knowing that that city may have an issue that comes back before the County Commission for which this person may vote, sets up a perception real or not, that some quid pro quo is at the "foot." I don't think we should be colored by those questions. It would seem to be it's easier to remove it from the table. There may be other ways in which -- I haven't pondered it very much how you could fix it, but how do you do that? Maybe it again goes back to the issue of transparency. As long as it's known that this is what you are doing and it's out there for the public, then maybe it takes away that tendency for some to find it suspicious.

MR. WOLFE: I'm not knowledgeable about this, but Deerfield Beach enacted a recent Ethics Ordinance trying to bring -- which I appreciate transparency, because I'm a big transparency person -- but looks like they're trying to do a nexus between transparency, the procurement process, transparency land use Ordinance votes; and I

wonder if you have any knowledge of how that came about? I know we had issues up there, but do you think that's a good idea?

COMMISSIONER JACOBS: I haven't had a chance to read their whole remake of it. I did have lunch with the Mayor a couple of days ago and we talked about it and where the rules can sometimes trip you up and have you make mistakes. And I think the overriding -- whatever you all come up with, is to ensure -- I hate to wear out the word, but the issue of transparency so you know what you are doing, you know what the expectations are, it doesn't get so convoluted that you make a mistake and you didn't know it. And the Mayor was sharing with me an incidence where there was a grand opening of some sort and there was question about whether they should pay, whether the children that were of the elected -- that were coming that snagged or hor d'oeuvres off a tray, was that a problem, should they have paid. And the last thing you want is to be doing the right thing and have someone call you on an ethics violation because you had a glass of wine or you ate a shrimp as a tray went by. So trying to understand the simplicity of ethics and making sure it's transparent, I think you saw some of this happen on the State level with the changes that they put in place and Deerfield Beach pretty much followed their methodology from what I understand, and it can lead to some problems. So in taking those lessons back here, I would urge you to keep it simple.

THE CHAIR: Thank you. I want to make sure nobody else has any questions before I give it back to you, Ken. No? Ken?

MR. FINK: In response to that lobbying down, you're in favor of prohibition against it?

COMMISSIONER JACOBS: Yes.

THE CHAIR: Any other comments from the Commission? Commissioner, would you like to close on any thoughts or comments?

COMMISSIONER JACOBS: Not really. I don't know. I think you all have a tough job ahead of you, and I think that you can get -- I guess I would leave you with the final thought to keep it simple, to keep it as transparent as possible so that we and the public can feel overall what you are trying to do is make the public feel better about the elected process itself. And opening it up and keeping it transparent, in my mind, and keeping it simplistic, is the easiest way to reach that goal.

THE CHAIR: Thank you for your time and I thank you for the service to our community.

COMMISSIONER JACOBS: You're welcome. I love what I'm doing.

MR. WOLFE: Thank you for your candor. It was a birds-eye view of some of the things that happen on the dais. I appreciate that.

COMMISSIONER JACOBS: I tend to say it and then I'll pay later for it. Thank you.

THE CHAIR: Good luck. Thank you.

We have three minutes before we're time certain for public comment so we'll wait and see if anybody steps in the door with a burning desire to speak before us. Anybody who is sitting here now? Are you here for public comment? So we'll wait to make sure that we comply with public notice, and in the meantime we will go back to other business. Mr. Collado.

MR. COLLADO: I want to say for the record, that I understand that this is the third meeting.

THE CHAIR: Fourth.

MR. COLLADO: Fourth. And that joining this committee late comes with the responsibility of catching up. I read the minutes of the -- the two minutes that are posted on the website from the previous meetings, and I look forward to the one that was approved today. And I will be reading this binder of things that I feel I need to know to ask more intelligent questions. And I understand the responsibilities of coming late. So just for the record, I understand that to be the case and I know that the other one that's coming even later has even a greater task.

THE CHAIR: Thank you. We'll pray for you as you catch up through all that information. Any other business while we wait for public comment? You all are being much too kind.

MR. FINK: There will be a pop quiz.

THE CHAIR: You will need the strength. Any other business while we wait for public comment?

MS. COWARD: I have a question as it relates to attendance. I'm not sure when Mr. Collado was actually appointed, but my appointment was in April but this is the first meeting notice that I received was in June, so I wanted to be clear this was my first meeting and I wasn't deemed to be absent at May, although I was appointed in April. I didn't see anything in the minutes about me being absent in May.

MS. CEPERO: I'll double check that.

THE CHAIR: You should have been noticed when you were appointed in April.

MS. CEPERO: I had sent some information out --

MS. COWARD: I have the information in here for my appointment, nothing in here about a May meeting. It says meetings to be determined.

MS. CEPERO: I'll double check.

THE CHAIR: We're good. So you will have three credits.

MR. COWARD: Thank you.

THE CHAIR: I have 11:30 and I'll open the floor for public comment. Anybody wishing to comment before the Commission? Seeing none, we will close the floor for public comment. Any other business before we adjourn?

MR. WOLFE: Our next meeting -- when did we decide, what date was that?

MS. CEPERO: I didn't hear the question.

MR. WOLFE: What was the evening meeting date?

MS. CEPERO: It was September I believe. I will look right now I just don't have the list of the days.

THE CHAIR: Does anybody recall the evening meeting we agreed on? Seems to be September.

MS. CEPERO: 6:30 on September 9th.

THE CHAIR: Everybody remember that. In September we have an evening meeting coming. September 9th.

MR. FINK: Are we meeting in July?

MS. CEPERO: Yes. July 8th.

THE CHAIR: Is that a concern for anyone?

MR. SCHERER: I'm calling in on that one. We haven't had a call in yet, have we?

THE CHAIR: We have not.

MR. SCHERER: Well, we're going to have one. That will be the first one.

MR. FINK: (Inaudible.)

THE CHAIR: We don't know the reason, but the question, the Ordinance is clear that three consecutive meetings it's considered vacant, so I don't know what the interpretation is. Any other questions, comments?

Folks, at the next meeting, the July 8th meeting, we will have the three individuals testifying before us, questions, and on that meeting one of the agenda items that I intend to place will be the structuring and prioritizing of topics to be addressed moving forward. So if you all would give that some thought prior to coming into that meeting, what those thoughts would be, you have seen the list, and we will put that in priority form and begin to address that in July. And then really schedule each of those for a work session leading into it and at that time I will again table the question as to whether we need to assign subcommittees to start doing additional work outside of this commission.

MS. COWARD: Where is the list located?

MS. CEPERO: I'll be sending it. I had sent it to -- actually you should have received it, because you were put on the e-mail list right away. So maybe we're having trouble with e-mails.

MS. COWARD: I have all the e-mails you sent since June. Remember you were calling me? I didn't see any prior e-mails. The first e-mail I got was in June.

MS. CEPERO: We must have had issues.

MS. RORAPAUGH: Resend the list to everybody.

MS. CEPERO: That was part of one of the bigger e-mails. I'll send the list out again.

THE CHAIR: Any other questions?

MR. FINK: Motion to adjourn.

THE CHAIR: Let's have staff deliver the deliverables.

MS. CEPERO: Holding true to form I will go through my notes and tell you what I have listed here for deliverables back to you guys. Chairman passed a note to me throughout the questioning today to provide a copy of the policy and Ordinance related to Selection Committees to you all so that you can see that. I'm also going to get a copy of the captioner's notes from the last weeks County Commission meeting for the portion of the discussion related to the Honest Services Fraud, that workshop issue just in case you're interested in seeing that discussion. I asked Rob during the meeting to pull a copy of the policy on lobbying that we have as a County and the issues surrounding that, any penalties and all that matter. And lastly I'm going to of course catch our two latest members of the Commission up to speed on all of the materials that we provided thus far to everybody, and of course make ourselves available, Rob and I to any questions any of you guys have, as we always are but also to --

MR. SCHERER: Does the County keep records of the number of Selection Committees that a Commissioner has served on in any given period, a year, two years, whatever?

MS. CEPERO: I'm not sure but I'm certain that they have the information. I'm not sure it's a separate list.

MR. SCHERER: I'm interested to see a listing of the Selection Committees the County has in a year and the Commissioners that have served on them, and I would be interested to know if we have some Commissioners that are serving on virtually all the Selection Committees and some that are serving on none, particularly I'm interested to know whether some Commissioner's are serving on 100 percent of the Selection

Committees when the amount and issues are worth more than $5 million, $2 million. I would like to know that if you could find it.

MS. CEPERO: I will see what I can come up with.

MR. WOLFE: I know we're in receipt of a letter from the (inaudible) asking questions to review the Selection Committee composition and procurement process; can we send a letter asking them to attend and explain to us why.

MR. SCHERER: I don't know if this is available, but it would be interesting to know a Commissioner serving on a Selection Committee, and who the lobbyists were registered for those committees, on that issue.

THE CHAIR: That is certainly an issue that I intend to agenda for further discussion.

MR. SCHERER: We can have the data available. If they can call through and find out so every time I'm lobbying if some Commissioner serves on a committee, I would like to know it.

MS. CEPERO: Let me be clear I understand your requests. So a list of the lobbyist that were listed or registered for the firms that were being considered for the Selection Committees during the Selection Committees for each of the Selection Committees that we have had.

MR. SCHERER: I said it differently. I would like to know the number of times a Commissioner has put him or herself on a Selection Committee, and I would like to know who the registered lobbyist is for that issue.

MR. FINK: I understand what you are asking for. My question really involves -- that almost sounds like we're trying to identify if there is correlation between somebody is putting themselves on a Selection Committee and the amount that we're being lobbied

in terms of “the who,” is doing that. But I think we're trying to get to a general rule of thumb that says, do we really need to know who is the offender -- if I use that word -- probably too loosely, but who is guilty of that or who does that as opposed to, don't we think that the general problem exists that if you have all nine Commissioners sitting on the Selection Committee and they all vote in favor of it, and there are three staff members, what were the staff members there for in the first place other than to provide --

MR. SCHERER: These are two separate questions in my mind. I don't know if data will show us that or not. I would be interested to know that. My opinion is we ought to limit the number of times a Commissioner can serve on a Selection Committee, if they only had ten a year then they would use them more judiciously then serving every time their favorite lobbyists wants them to serve, if indeed that is going on. I'm not suggesting that it is, but it would be nice to know that.

MR. FINK: Even if it was that's the transparency that we're trying to eliminate, so the way to address it would be to probably put a limit on the number of Commissioners that could serve on an Selection Committee, and say you can not have a majority of the Commission sitting on a Selection Committee.

THE CHAIR: I will make a comment. I notice a member of the public has come in, so I want -- I think what Mr. Scherer is asking for provides us with data to decide whether there is an issue that we need to address or not, so we need the data, where we go with that once we get the data, we'll make as a Commission.

Sir, I noticed you stepped in and signed in. We already opened and closed public comment, but if you're here for public comment, I'll be glad to hear you. Yes? Come up please. If you'll have a seat there. State your name and address for the record.

MR. RAND: My name is Russell Rand at 1205 NE 3rd Street, Fort Lauderdale, Florida, 33301.

THE CHAIR: Thank you for being here, Mr. Rand.

MR. RAND: I have no idea where you are. I'm in the middle of the night so I woke up to come here. I don't know how many seconds I have to speak. I will compress as quickly as I can. I worked for Broward County 29 years. In one month --

THE CHAIR: You have three minutes, sir, just so you know.

MR. RAND: In the environmental laboratory agency, I have been contaminated for 33 years, I was forced (inaudible) to sweep the asbestos dust out of the boiler room (inaudible) with no protection at all, or be fired. The County is not complying with Federal Law that says I should have medical monitoring. My supervisors were up to no good, made chemicals they should not have made, took chemicals, took other chemicals, dumped chemicals, et cetera, et cetera, et cetera. I have been through all the gamut. I spoke to the Charter Review in 2002. The three issues that were brought up was great accountability, greater whistle blower protection, and not even the appearance of impropriety. I was suspended immediately after I spoke to the Charter Review, brought up on false charges, et cetera. I filed a legal action 2001, discrimination retaliation, includes hurricane leave denial. I survived a hurricane in Connecticut 54 years ago; the City of Waterbury that I was born in was under water 260,000 -- I'll never forget, Five years old at the time. 78 dead, $3 billion damage. (Inaudible.) I worked in environmental. I know the County environment backwards, forwards, upside down. My action was settled out of court for a long overdue promotion. I was brought up on more false charges and fired November 7, 2003 for coming back from lunch early, for waiting to catch a ride carpooling, for misuse of equipment to type a memo and reply to the

concerns I raised the previous day, and for miscommunication that includes the memo to the Commissioners about the drug manufacturing, the installed video cameras, the rest of the chemical engineers; December 3rd, 2004, still steeling chemicals, still making drugs. You know about the fire people, New Haven. You all know that, far in advance of that. Spent tens of thousands of dollars, have lost about $350,000. No person can sit down and tell the truth in Broward County, and that's why you're here as an Ethics Commission. I spoke to the last Ethics during the last Charter Review. I went about eight meetings, I tried to speak on Ethics, and I was not allowed to speak. That was that. Katrina, I made the first call for Katrina long before the hurricane center, et cetera, et cetera, I called Lonnie Quinn, Channel 6. When the event occurs here, and the water rises 37 feet, similar to Katrina, thousands of homes will be under water, that will be repeated, and I could talk for hours about the hurricane. A long time. But I wish people understood what is going on. Talk about the procurement process that I watched yesterday, of course, it gets to the "fox is guarding the hen house," issue and all that. I tried to get the County to deal with reality, they won't. I filed numerous things, get now where. There is not enough of me to overcome the "800 pound gorilla." I can't do that. So I'm waiting for the inevitable. You're looking for pretty words. Moses got a code thousands of years ago; "thou shall not lie cheat or steal," and I'm looking for the pretty words that will say similar things. I sit here because of they're lying. If I had a dollar for every time I would be very rich.

THE CHAIR: Mr. Rand, if I could ask you to complete your thoughts and finish your comments.

MR. RAND: That's about it. I just wanted to give you an overview as quick as I could of what is going wrong. You can not fix this quick enough, you can not do it quick

enough. I understand procurements, budgets, and the bottleneck snafu of budgets and money. Been there, done that.

THE CHAIR: Sir, thank you for taking the time to speak with us. Thank you. Have a good day.

I will close public comment again. Being no further comment from the public. Any other business?

MR. FINK: Motion to adjourn.

THE CHAIR: Motion to adjourn by Mr. Fink.

VICE MAYOR SCHECHTER: Seconded.

THE CHAIR: Seconded by Commissioner Schechter. All in favor signify by saying aye. All opposed same sign. Thank you folks. See you in July.

(This meeting concluded at 11:43 a.m.)

Broward County Ethics Commission

July 8, 2009

MEMBERS: City Commissioner Carl Shechter, City of Pembroke Pines – Vice Chair
Howard Bakalar
City Commissioner Felicia Brunson, City of West Park
Alfreda D. Coward, Esq. (via teleconferencing)
Kenneth Fink
Robin Rorapaugh
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Rebecca Keeler, Ph.D., FAU
Robert Meyers, Esq., Executive Director, Miami-Dade Commission on Ethics & Public Trust
Norman Ostrau, Esq., Director, Public Ethics Academy, FAU
Leah Von Leu, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on July 8, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

Vice Chair: Ready to go?

Good morning, everyone. I am going to be Chairing the meeting today. Neal is not feeling well.

So it's 9:30, roll call please.

(The roll call was taken by the Real-Time Reporter at this time.)

Vice Chair: We have a quorum, thank you.

I understand that our first guest is not able to attend this morning. Mark Herron is not going to join us. Norm

Ostrau is here. And after we get through with some housekeeping matters, we will ask Norm to come up.

What's your pleasure? Do we have anything Monica?

Ms. Cepero: Yes, sir. Just to give follow up. Last meeting we had requested for Frank Rudd with the Florida Institute of Engineers to come and present based on their letter of interest that they had submitted, and we have something set up for them to come at our next meeting, August 12th. No set time as of yet, and perhaps we could have Mr. Ostrau speak a little bit about the Ethics Academy that you guys all discussed at the last Commission meeting which I attended and you attended and Chair de Jesus attended and we requested an audio copy of that; of that Ethics Academy so hopefully we will get that soon and disseminate that to all the members.

And I just want to confirm you all received the very large e-mail that I sent out with I think it was 15 attachments. Sorry for bombarding all of you at one time with so much information but as you can imagine, we are knee deep in budget deliberations and that has taken quite a bit of time.

So just to confirm you all received it and I think that was all the outstanding deliverables.

Vice Chair: Thank you, Monica.

Mr. Ostrau, would you talk to us a little bit about the Ethics Panel that you run up at the school, at Florida

Atlantic University? We attended that meeting and I thought it was extremely interesting and learned some stuff.

Mr. Ostrau: Sure. It would have been more interesting if we had the presence of the number one person, but she was unfortunately remanded at sentencing and sent to jail immediately. But what had happened was that Mary McCarty had come to us and said she wanted to have a forum to talk about what she had done and how she rationalized the behavior.

She knew that it was not proper behavior and wanted to have a forum to talk about what she had done and how she rationalized the behavior. I mean, she knew that it was not proper behavior and she rationalized it. And she wanted to talk about it and talk to elected officials about that so we said we would do that and had her husband also, because it was an interesting situation with her husband, if you don't know, he got -- he pleaded to an information that was a felony which was not reporting his wife's felony. And he is now serving eight months in federal prison for doing that.

And comment from the prosecutor was to - in general to us was that they probably can send anybody to prison. There is nobody that they can't -- under their jurisdictions -- and so we had planned to do that.

And then we set up a former federal prosecutor and a defense attorney and then the head of the Public Corruption Unit

in the State Attorney's Office in Palm Beach and they discussed where -- it was an interesting legal prospect because the Judge in the sentencing of Kevin McCarty stated that what he saw was taking the Ethics Code and criminalizing the Ethics Code. And that was a comment from Justice Colea's dissenting opinion in a U.S. Supreme Court case. It was a case that was sent back to trial court where Justice Colea said people really don't know where they have violated the law. So we ought to look at it.

But the Honest Services Fraud Law has been on the books for years and it has been upheld. So the comment was made. But they discussed that in discussions. So hopefully you will get the transcript, the video, and the audio of it and you can have an opportunity to see -- because we went through the whole gamut of the violations that -- and I use Mary and Kevin -- what they did and how that could be very confusing to an elected official. It could be very confusing to anyone as to some of the voting conflict situations and the gift law.

Vice Chair: Are you planning any future seminars on other topics?

Mr. Ostrau: Yes, that's what the Institute does. It's part of what the Institute does. Public Ethics Academy is designed to educate, do training for municipalities and local governments, and to do research and seeing what issues can be brought forth and this was our second seminar on the issue and we

plan to do as many as we can at; least two or three a year as the issues come up.

Vice Chair: When you say that you do training for municipalities, how do you go about doing that? How does that work?

Mr. Ostrau: Rebecca Keeler is with FAU and she is a Ph.D. student but works with me here in the County in Ethics but we -- one of our first was that we put together a training session, or training program, for Hollywood.

We trained 1,800 employees in Hollywood at all levels. We had three different programs. We had a program for rank and file, for Supervisors, then for Directors, and then for the Commission. We had those scheduled and we went through and did about an hour and a half for the rank and file, and then moved that up, depending on supervisory or directors. So we finished 1,800 employees with the city of Hollywood. Then we trained the trainers because just having that one-time thing is not enough. We trained the trainers so they could re-emphasize this on a regular basis; that they would do that. Then we reviewed all the codes that the City of Hollywood had and made recommendations to them on their code.

We've done training for Davie, for the City of Plantation, for Deerfield, and I have the 21st – I am doing

Coconut Creek and we are going to do their Commission and their Directors and supervisory personnel.

Vice Chair: And the cost of that is?

Mr. Ostrau: That depends on what we have to do. The cost for doing Hollywood, the whole program, was $21,000.

The Chair: That included the training?

Mr. Ostrau: It included training the trainers, it included our review of the documentation that they had of their programs and the actual training for all 1,800 employees and we did that out of the -- Rebecca and I -- we did that out of the Academy.

Vice Chair: Ken?

Mr. Fink: First of all, thank you very much for being here. You are an invaluable resource.

Mr. Ostrau: Well --

Mr. Fink: Believe me. You are in a unique position doing what you do and I guess you know what our charge is and what we are supposed to do, so the broad question I would ask is, sitting in the position you now sit in, if there are any glaring holes in the existing Ethics Policy that we have, what would be the three or four things that you feel we have to address; that the public would like to see -- that would give the public more confidence and transparency?

Where do you think we need to be looking to close the gaps?

Mr. Ostrau: Okay. And it's a big question.

Mr. Fink: But we gave you an hour and a half.

Mr. Ostrau: Let me tell you, you are not unique. This is happening in Palm Beach County. In fact, I got a call on Monday from the Chair of the Palm Beach County Commission. They are starting their hearings on this. I consulted with Orange County on their situations and they are all generated from problems that occur. There are a lot of holes in the statute. But having said that, there is enough in state law, civilly and criminally, that anybody who violates the law is going to either have a civil penalty or a criminal penalty. There is enough there.

I think the major emphasis is on enforcement. I think that enforcement is the prime requisite that you ought to look at and whether it's the model that Robert Meyers is going to talk about in IG or some other form that looks at -- right now I sit as the Ethics Officer at West Palm and we've established a liaison in every department where we talk about ethics -- whether or not it's legal and I was talking to Robert about this -- the city attorney or the county attorney makes the legal determination.

When a Commissioner calls me at the City of West Palm Beach and asks can I do this, we talk about whether or not there is an appearance of impropriety. We talk about -- not the legal aspects -- we talk about what this looks like and I give them guidance. I don't give them legal. I am a guidance counselor.

They might not always accept it but we put out the warning signs and say this could be problem. This could be a concern. And let's look at it. The legal department will give you an opinion that this does not violate the law but we say -- we go beyond that.

So I think enforcement is the mechanism that I would do. For you to try to plug all the holes in the state law, and I don't know -- you got a chance to look at the Palm Beach Grand Jury Report? You know, certainly -- and the state criminal law -- there are some places that need to be done.

If you were having to plug everything, I would recommend one thing. If you were going to try to do something I would recommend an ordinance that would be an Honest Service Ordinance; deprivation for fraud for Honest Services and that covers everything. That would be the one place that could do it.

Mr. Fink: Could you repeat that?

Mr. Ostrau: Deprivation of Honest Services. Whether or not you committed a fraud, to deprive the citizens of Broward

County of their right to honest services, which is the federal law.

That would encompass everything. Because I think if you went through the state's changes to try to do everything that the Commission, the Ethics Commission, has been trying to do for years, it becomes very much a problem.

But I still don't know that that is -- my emphasis is on enforcement and what you do to enforce what is already there.

Mr. Fink: So take that a step further. Give me an example of what you think we would need to do. If you are telling me that there is enough law, both civilly and criminally to cover all of the violations, what is it that we would add to the Broward County Code in terms of enforcement?

Mr. Ostrau: I would emphasize training like the Palm Beach Grand Jury did; emphasize training. I think that is very important. Training on what's out there and what the warning signs of where to be concerned.

Mr. Fink: Would you call that educational?

Mr. Ostrau: Educational. I would establish some mechanism, either a hotline or an Ethics Officer that is available to discuss complaints and concerns.

Mr. Fink: An ombudsman?

Ms. Ostrau: Well, it's an ombudsman and that type of thing. An Ethics Officer, hot line type thing with liaison.

One of the charges that you have that is very, very – I mean, you are supposed to come up with recommendations for changes for the County Commission but you got to have the County Commission buy in that's it's the whole County government that has to be under control.

The issues that we had in the County were not only at the Commission level. We had supervisory personnel here who was in charge of the building who committed a felony by using his position and having contractual obligations with a firm that was doing business with the County. Ultimately that person was convicted of a felony and lost his pension benefits.

I think you have to get them to buy in that it's County wide.

Mr. Fink: So you are saying staff as well as --

Mr. Ostrau: Everybody.

Vice Chair: Anybody else?

Norm, you talked about an honest services statute for the County and yet, isn't it true that the federal statute doesn't really define honest services so that it's on the whim of the --

Mr. Ostrau: Prosecutor.

Vice Chair: Prosecutor. Whatever he says is honest services fraud is Honest Services Fraud. How do you draft the legislation to define it?

Mr. Ostrau: You don't define it.

Vice Chair: You don’t define it.

Mr. Ostrau: No. You don’t define it.

Vice Chair: It’s the perception or the appearance of impropriety?

Mr. Ostrau: Right. That’s what you’ve done. That if it's a willful deprivation of the right to honest services for an economic benefit, then that is what it is. And I don't know that I am recommending that.

I said if there is a catch all, instead of going through every portion of the state statute and going to fill holes where it might be needed, like voting conflicts and going through each one of those things and trying to come up with a code of ordinances, it’s too difficult. It’s beyond -- it is very, very difficult.

So that encompasses everything that you might want to do. But I am not sure that that’s where you want to go. I think creating the processes -- and again, when Robert talks about the IG, the idea has been very, very effective down in Miami-Dade. And I mean – but -- and Robert asked me to look at other jurisdictions and how they did their enforcement.

The City of Deerfield just added an Ethics Code that they did and they set up a procedure where complaints come to the city attorney. City attorney then has a pool of investigatory

people – there are plenty out there – former investigators who have done this for a long time.

They look at and determine whether or not there is a violation. Then it's brought to a Magistrate who is a retired judge. The Magistrate then does a hearing and if there is a violation found, then there are penalties. And their ordinance determines whether or not there is – one of them we just talked about is public censor. And I think public censor is a big thing.

I did it one time. I chaired a committee in the House of Representatives. We censored a member of the House. He stood in front of the House of Representatives. The whole body read the violation. The whole body voted to censure. That's a major thing and so because your penalty levels are very difficult to come up with – Deerfield has a penalty of a reduction in salary for their Commissioner or their – anybody who commits a violation.

Mr. Wolfe: I have a couple of questions.

Mr. Ostrau: Sure.

Mr. Wolfe: We have a copy of the Deerfield Ethics Ordinance and I was wondering if you would delve a little more into it. When did it go into effect? I am aware of the problems of Deerfield in the past. But is this just a real recent thing?

Mr. Ostrau: It is. Capellini was indicted. It was an information on Capellini, the former Mayor. And right after that, one of the members brought the thing that we should have an ethics thing.

So it was right before the election in November. Because Capallini had run in the election and so they brought that Ordinance up and it had passed.

I mean, it's got concerns. They try to make things that -- the problem with re-doing these things is you have joint jurisdiction between the state and the local jurisdiction and what Miami has found that once they brought it to their Ethics Commission, they had a violation of the Police Chief. And then the same violation was brought to the state. And there could be totally different results on both those things so that dual jurisdiction creates a problem. And I think that's one of the problems they've created but their mechanism for enforcement is a decent mechanism.

And in fact, the North Broward Hospital District did that; brought an outside investigator in. They didn't have a mechanism --- once the investigation found there was probable cause to believe that something had happened, the mechanism to the Commission; there wasn't another mechanism to take that out.

And North Lauderdale has just hired an investigator on a complaint.

Mr. Wolfe: As a follow-up on Deerfield Beach -- what was interesting in the Ordinance, and it is rather detailed and I can see the various jurisdictions in the document, but there was also a section where they were talking about procurement of vendors within the city and there was disclosure requirements on bids where lobby contacts had to be disclosed and campaign contributions to Commissioners had to be disclosed on bids and RFP's.

Is that working, or how does that -- I know it's a subject that some of the Commissioners have brought to our attention and I was wondering --

Mr. Ostrau: I don't know the specifics of it working but disclosure is very, very important. I think disclosure is an important element.

When you have a potential prohibited donor then any action between you and that donor, whether it's staff or Commission, that should be a disclosure requirement.

And again, you've discussed the solicitation of charitable contributions. It's the same thing. I mean some jurisdictions -- the State of California, or the City of Los Angeles does a requirement that if you are soliciting charitable contributions from some of these prohibited donors, that you disclose them; that you disclose what you are doing. And the Fed's have it and I will give you the CFR site on the Fed's and

the executive branch. You cannot solicit charitable contributions from those prohibited donors.

So I think disclosure is a major element in looking at all these items. And I think those disclosure requirements are good.

Mr. Fink: For my own edification, what are they defining as a prohibited donor?

Mr. Ostrau: Vendors, and people who are seeking the concurrent-- I just had the one from the CFR from the Department of Agriculture; anyone who is seeking business or regulatory action from the Commissioners.

Mr. Fink: Okay, so by extension does that not include lobbyists?

Mr. Ostrau: It does.

Mr. Fink: So if I understand you correctly, and forgive me for rephrasing it, but that's how I put my thoughts together. It might not be a bad idea to have as part of the Code of Ethics, #1, disclosure, but #2, a prohibition against seeking charitable contributions from vendors and/or lobbyists that come before -- at any level.

Mr. Ostrau: There are two levels; total elimination of that, or disclosure. So you could do it two ways. So you could disclose it or at least bring it forward.

I would go further to say the gift law in the state -- state gift law is not good. It's not a good law. In fact I drafted it. I drafted it in 1988. And it is not good.

It went through the process of the legislative process where everybody had to negotiate it so it's not good and it has a lot of holes and a lot of problems.

I would think that total disclosure of any gifts or total elimination of anything of value from anybody seeking to do business with the County or vendor that is existing to do business or lobbyists, should be either totally disclosed or prohibited.

Mr. Fink: Okay, so -- can I go?

Mr. Wolfe: Another issue -- go ahead.

Vice Chair: Does anybody else have a question?

Commissioner Brunson: Well, just one. Can you repeat that again? You said total disclosure? Can you just repeat that?

Mr. Ostrau: Total disclosure or prohibition.

Mr. Fink: Okay, so to use as an example which is what has been coming before us. As we all know, the economy has really affected charitable contributions. Many agencies throughout the County and the state seek private funding or private contributions to fund their -- whether it be Women in Distress, whether it be United Way.

In your opinion, would disclosure be sufficient, rather than prohibition because prohibition would cut off the source of funding that now exists that's becoming even harder to raise funds in this economy.

Mr. Ostrau: Well, I don't buy because you have a restricted place to go, that you are doing lobbyists or vendors, or those types of things, that is going to totally destroy the charitable contribution business. Those Commissioners can go anyplace else and solicit those contributions, other than those prohibited donors.

I do think disclosure brings out to the public that this is what's happening and if there is an appearance of impropriety; that you are going to that person, that lobbyist who ultimately gets the business on something else and is a pay-to-play type of thing, that that disclosure is out there.

Mr. Fink: Thank you.

Vice Chair: Anyone else?

Mr. Bakalar: Do you draw any distinction between direct and indirect solicitation? If, as you say, United Way puts on the Mayor's Gala honoring the Mayor. If United Way is soliciting donations, is there any distinction?

Mr. Ostrau: You know, there's an interesting statute nobody talks about. I cannot think of it. If there is a function that honors elected officials, that function -- all the

contributions and all the solicitation of the contributions must be disclosed. So nobody follows that.

But again, it's a disclosure thing. If that's what's happening -- we have gone out and all the tickets are out there. Some jurisdictions do draw the distinction that if your official capacity is used to raise charitable contributions. If they are honoring you as a County Commissioner and not as a human being that is doing good work. If they honor you as a County Commissioner then that's a prohibition.

Mr. Fink: But if they were to honor you as a human being, it's not? I don't know how you would ever draw the distinction?

Ms. Rorapaugh: United Way, Mayor's Ball, it's a different person every year.

Mr. Fink: I understand that, but if it were a Commissioner how would you draw a distinction?

Mr. Ostrau: There would have to be some relationship. And these are just jurisdictions that do this. I am just talking about other jurisdictions.

Mr. Fink: If it happens to be a Commissioner then there is no distinction?

Mr. Ostrau: But if they are honored for humanitarian work or something that they've done beyond their capacity as an elected official, and that jurisdiction has said that's okay.

Vice Chair: But if there were not an elected official, they would not be honored?

Mr. Ostrau: Well, there are some people that are. I was involved in the homeless thing and many times the homeless shelter has been non-elected officials. Bill Keith, Jim --

Vice Chair: There are, but not enough for the charitable organizations to reach out to and attract enough support.

Mr. Ostrau: I agree. But to use -- I am just saying there are other --

Vice Chair: We have reached ten o'clock which now makes you are official invitee. Do you have anything specifically that you wanted to talk about at ten o'clock?

Mr. Ostrau: No, I think we've covered it. Whatever you do has to go through the whole County staff. I think that it makes no sense just to do the County Commission so you have to get the buy in from the County Commission to do that.

Vice Chair: And yet that's not what we are charged with.

Mr. Ostrau: No, it's not. It's not what you are charged with.

Mr. Wolfe: Are we legally --can we do that, to put that on the ballot for staff? To make a direction?

Mr. Teitler: I think the direction that came with the Charter is specifically for the County Commission.

Mr. Ostrau: The only way you can do it in my estimation is to have the County Commission propose that. That whatever they take; that whatever you do and in their capacity as County Commissioners, put it on the ballot for the whole staff.

Mr. Wolfe: Or could we make a suggestion that within that Ordinance that it's the intent of the Commission --

Mr. Teitler: You can make the suggestion but the specific path relates specifically to the County Commission.

Ms. Rorapaugh: And my understanding is the County right now has not a Code of Ethics, but they adopted something as direction for staff?

Mr. Ostrau: Well, the County adopted the Ethics Code. They are in the Code of Ordinances. They adopted the Ethics Code. There are a couple of places that they've adopted. There is an Administrative Order that is out there. There are a couple of places which are half-hazard along the way.

Vice Chair: Bob.

Mr. Wolfe: One of the issues I keep going back towards when we had the Commissioners coming here giving us their thoughts, was the issue of County Commissioners having outside employment that dealt with lobbying other taxing authorities in this County.

I personally have some disdain about that practice but some of the Commissioners brought that to our attention as something they were concerned with. Others didn't. I wonder what thoughts you had about that.

Mr. Ostrau: We have never --

Mr. Wolfe: -- and their spouses.

Mr. Ostrau: We have never really in the whole concept of the Ethics Code restricted people from employment. When that occurs, I think there should be disclosure.

Disclosure in my mind is a very, very important thing. Disclosure and then if an issue comes up with that municipality or taxing district on whatever they are doing, then they need to abstain from the vote. There needs to be an abstention from the vote.

That disclosure, and again, disclosure can't be just that I have a conflict of interest. The cases have been out there now with Hollywood where it has to be specific. It has to say exactly what the conflict is so the public -- when you are talking about appearance of impropriety, the public gets to see – listen -- Commissioner A. is doing lobbying for "X" with the City of Deerfield. And we are doing this and they have given the contract to Commissioner A., and Commissioner A. is doing this and that and that and that spells it out so the public can see that this is happening.

Then if Deerfield comes to the County Commission, then that should be an abstention by that County Commissioner.

But I am reticent about restricting employment. We've never done that in the Code.

Mr. Fink: Does that mean we shouldn't?

Mr. Ostrau: No, it doesn't mean we shouldn't. Then you get talking about definitions and you get into what you can and cannot do and who is going to be there and --

Mr. Fink: Yeah, but using Bob's example, and if I understood you correctly, either an elected official or their spouse being hired as a lobbyist that goes out and "lobbying down" -- I think that's the term you prefer, huh?

Mr. Wolfe: Yeah.

Mr. Fink: Lobbying down to a municipality – disclosure doesn't make it any less offensive. And so by prohibiting it --

Mr. Ostrau: It's not offensive if I'm an attorney and I have a client in front of Deerfield that's doing a permit -- if I'm doing that, is that an offensive thing?

Mr. Fink: You're an attorney. But as an elected official, or your spouse --

Mr. Ostrau: Well, as an elected official who is an attorney -- makes his or her living representing clients in front of a city board -- is that wrong?

I mean, I don't know that in itself it is wrong. But the thing is, the public should know that if that city comes to that elected official, what that elected official has done and if there is -- and I think it's in inherent conflict if that elected official has a vote on that issue from that city, then that should be a recusal.

Vice Chair: We've talked about charitable solicitations and yet nobody seems to want to touch that inviolate campaign contributions.

Mr. Ostrau: Well, there are jurisdictions that have touched on it, absolutely. We haven't touched it, but Connecticut just went through a Supreme Court case that upheld their restriction on campaign contributions from vendors or lobbyists.

Vice Chair: That is interesting. When you talk about vendor or lobbyist, if somebody is a lobbyist, no contributions of any kind, even if they never appear before your commission body?

Mr. Ostrau: Well, they wouldn't be a registered lobbyist for -- unless they appeared here --

Vice Chair: Well, okay, let's assume that they are registered. So if they are registered as a lobbyist, then no contributions?

Mr. Ostrau: I mean, there are jurisdictions that have addressed that; City of Los Angeles, Connecticut. There are jurisdictions that have addressed those types of things and prohibited those things.

I have a question though, as to -- I am not sure -- Robert, you are going to have to look at this. The election statute preempts certain things that local governments can do with regard to election – campaign. Because it's a state statute -- campaigns.

The City of Gainesville put in restrictions but what they had to do was get a local bill passed through the legislature giving them authority to do that. So I'm not sure that that authority might not be in the jurisdiction of an ordinance that you could do on some of the things in campaign contributions because that is a preemptive statute. So maybe Robert can look at that and see where you can go.

Vice Chair: Can you do that, Rob?

Mr. Teitler: Sure.

Vice Chair: Robin.

Ms. Rorapaugh: Yeah. What we have also heard from some of the County Commissioners and I recall from testimony from the Charter Review Commission, is the state statute that basically compels the office holder to vote unless they have a conflict. Any confusion that some of our elected officials -- or

questions that they have that they want to avoid the appearance of conflict -- that that may not necessarily cover them when the statute compels them to take a vote.

Mr. Ostrau: I think that's wrong.

Ms. Rorapaugh: I agree but we have had several people talk about it.

Mr. Ostrau: I have had this discussion with the Ethics Commission. The statute says, and people refuse to read this in the statute, the intent section -- it includes the intent section of the Code of Ethics. And in the intent section it talks about the opinion.

So I think any time there is that thing, it comes under that exemption -- it's 286 -- is that the statute? It comes under that exemption. They have the right to do that. I mean they have the obligation to disclose that and they have the obligation to not vote on it.

So I think there is plenty of legal precedent out there that they do not have to vote on an issue. The city attorneys and the county attorneys have been very conservative on this issue. But I don't think they read the intent section which is there, which is part of the exemption which is part of the exemption under that statute.

And I've said to all the people that I do, when I consult with the city, that you don't vote on that thing because

there is an appearance but you must spell out what it is that is the problem. You've got to spell out what the problem is so that the public can see what the problem is.

Ms. Rorapaugh: On a second thing. The County Commission recently adopted new ordinances on lobbyist registration and lobbyist access. Have you had a chance to review that?

Mr. Ostrau: I have not. I just saw it. Because I was a registered lobbyist.

Ms. Rorapaugh: They'll charge you $50 a client now.

I know in the Ordinance, and I am not an attorney so take it as lay person's reading, lobbyists must now register per client. They are charged a fee for that registration. But there still appears to not be any type of penalty if their client so to speak, does not compel them to register, i.e., I'm going for a large contract and I have 15 law firms out there helping me.

Do you think that the person that actually hires the lobbyist has some type of responsibility to report that?

Mr. Ostrau: Well, I think in the state law there is a sign off -- you must have sign off from that person so then they are in the position to say, yes, I have done this and that person has to register and so there's a sign off. I think there is an obligation.

Vice Chair: Anybody? Ken.

Mr. Fink: Going back to enforcement. In the first go around, it seems you were more concerned -- if I got this correctly – education, and then a mechanism with an ethics office or a hotline to answer questions and/or complaints.

But my perception of the word enforcement is more of a penalty kind of thing and I am not sure you are talking about penalties?

Mr. Ostrau: No, I am talking about the ability to investigate complaints. To investigate.

What we've found in the whole scenario of what people do is if there's an economic gain, if there is easy access to that economic gain and there is a feeling that I can't be caught; those three things come together that people tend to violate public corruption.

So if there is a perception or a real perception -- a reality that there is an enforcement mechanism or investigatory mechanism that you know somebody is going to be looking out there -- that there is a complaint -- I think that goes a long way in alleviating this.

Because in the whole gamut of this, we're not dealing -- in the most part we are not dealing with sociopaths who would do something wrong just because it's against society.

We are dealing with people who sometimes just decide that that's something that I can get away with. And if one of

those elements is there -- the lack of gain, or the ease of access to that, or the investigatory process is there to alleviate that, then you take a lot of that out. And I think that goes a long way to stopping this thing and then brings it into perception. If there is some mechanism to do this then you've come a long way.

Mr. Fink: That's very helpful. I think I am done.

Vice Chair: Quickly -- earlier you said that there has to be willful and the other one would be monetary gain -- financial gain of some kind.

Let me give you a hypothetical. It's not a hypothetical, it actually happened to me. I was elected in 2006 to the City Commission of Pembroke Pines. My brother has been serving on the Board of Adjustment since 1997; appointed by previous Commissioner.

When I was elected, all of the boards, the different boards in the city, were reappointed by the Commission. I voted for all of them, including my brother.

Recently, another Commissioner's wife who wanted to be appointed to a board and he asked for an opinion from Sam Goren. Sam Goren said yeah, that's okay. Then he thought about it and he said, wait a minute and let me check.

He checked with the Florida Ethics Commission and they said no, that's not okay. She cannot serve on the board.

When Sam told me that, I asked my brother to resign, which he did. The question now is was that an ethics violation? You talk about willful. Certainly there was no intent. He was, as they said, he was appointed to that board years before I was ever elected.

Mr. Ostrau: Under that particular statute, there's no willful standard. It's just doing that under that particular statute, the anti-nepotism statute. And it was changed about 10 years ago. A collegial body could have done that but now it's not. And the reappointment would have been problematic.

Vice Chair: Yeah, but again, certainly it was not willful. Even Sam was kind of -- he thought initially that there was no problem and changed his mind when he made the inquiry.

Mr. Fink: Out of ignorance, what's the conflict here? Why is this considered nepotism? Your brother was there for 7 years, 9 years before --

Mr. Ostrau: It was the reappointment.

Mr. Fink: I understand the reappointment but what's the conflict or what's the nepotism? If somebody has a degree of expertise in a field and the Board of Adjustment is a non-compensatory service, you're not being paid, you are serving the city as a citizen, where's the conflict?

Mr. Ostrau: It's the appearance. Whether or not whether you conceive of it as legal conflict, there is a conflict of interest as to public duty and your private entity.

Whether or not that raises up, that is the issue. Public duty -- private interest. There is a private interest in him appointing some relative, whatever that interest might be, whether it's economic or anything. There is an interest in doing that above his public duties. So there's a prohibition. It's a state prohibition.

Mr. Fink: And I understand that. But if four out of five Commissioners vote to put his brother on the Board of Adjustments because he has a field of expertise and he abstains from that vote.

Mr. Ostrau: But that is the issue that came up in the court case; that if you -- I'll abstain from mine, but I'll vote for your wife to be on then you vote for my brother to be on, and that was the issue. It was a Miami Beach case that came out and that was the issue that was raised.

Mr. Fink: There's no economic gain.

Mr. Ostrau: You don't know that there's no economic gain. You are sitting on the Board of Adjustment and there's a possible economic gain that his brother gets from being on the Board of Adjustment, to use that just as a resume. So it's possible.

There was an interesting case of the Governor of Alabama --

Mr. Fink: Well, that's a whole different story, that's Alabama.

Mr. Ostrau: But what happened, the appointee to the board did something wrong while on the board. They prosecuted the Governor for the appointment because any appointment that he made -- any action out of that appointment was a violation for the Governor.

Vice Chair: Well, I brought this to the attention of our – and you -- because earlier on you did say you thought and I think I am quoting it, that willful and monetary financial gain were the components.

So in a situation where I guess I should have known of such a prohibition when I was elected -- but I was elected in March of 2006 and we voted in April to reappoint people on the boards.

I must say I was not aware of it. If I was aware of it I would have asked by brother to resign. But you said willful is not a part of this particular statute. My question and I am directing the question to that particular point. Shouldn't willfulness be one of the elements of a violation?

Mr. Ostrau: I don't know that willfulness should be in every one. Knowingly should.

Vice Chair: Knowingly.

Mr. Ostrau: Right. But whether or not -- if you knew or with the exercise with reasonable care should know that it's done, then that should be, in my mind, that should be a violation.

Vice Chair: I must say it was never --

Mr. Ostrau: But you bring up a good point. We can't have elected officials sit up there without knowing what the concerns are. I mean, there has got to be a mechanism that every time somebody comes into an office that they understand what the Code is.

There has got to be a mechanism, whether it's the Ethics Officer, or -- Robert is going to talk about their Commission that does the educational thing. Whatever that educational thing is, there has got to be to educate these people and every employee that comes in -- City of West Palm, every employee comes in for orientation, gets half an hour of ethics instruction. Every single employee.

Vice Chair: Robin?

Ms. Rorapaugh: Yeah. One more round on disclosure. With kind of the dearth of accountability journalism -- no offense to any members of the press in the audience listening -- how do you think disclosure should work? Should we be posting these types of things on the internet?

Right now we have a time period in which to fill out your paperwork if you think there's a conflict in your vote. How should the public be able to see those conflicts?

Mr. Ostrau: I think it ought to be out there. I think everything -- just like they put the agenda on the thing, it should be there. So if the agenda item is up there and you've got the minutes of the meeting, that disclosure form should be attached to those minutes so that if the public wants to look at it. They have the right to see it.

The public -- the whole concept is that everybody up there is a trustee for the public. They hold that position in trust and that trust should not be abused. The only way the public knows if that is an abuse is what they see.

Ms. Rorapaugh: Then on the disclosure form, if you are disclosing whom you are raising money from for third-parties like the other politicians -- charitable organizations and what-not -- is there a entity now that has a disclosure format that their elected officials use that we could look at?

Mr. Ostrau: Let me give that to Robert. There are some out of state that do disclosure and I can't think -- I think it's the City of Los Angeles that has disclosure requirements.

Ms. Rorapaugh: And then on enforcement, you have talked about an investigative tribunal --

Mr. Ostrau: He's going to talk about that.

Ms. Rorapaugh: Yeah. But in Florida, besides that Ethics Commission, is there some other --

Mr. Ostrau: You know, an Ethics Commission – Robert -- they have one down there. There are not too many like that. That is unique because of their ability in the County to be county-wide.

The other Ethics Commissions are more advisory and not specific to those. There are not many of them because of that dual jurisdiction.

Robert is going to -- they've talked about it in the legislature eliminating that dual jurisdiction for Miami-Dade and have them as the sole source and not doing it as the thing. But that creates problems, so I am not sure a judicatory commission is the right way to go.

The Deerfield model might be an interesting model. A Magistrate sits in that capacity and does it which still has the dual jurisdiction.

The Chair: Anybody?

Mr. Ostrau: Thank you.

Vice Chair: Mr. Ostrau, thank you so much. It's been an interesting hour and thank you for spending it with us.

We have about a minute and a half. Let me just get a cup of coffee.

(The Vice Chair recessed the meeting at 10:28 a.m. and reconvened at 10:30 a.m.)

Vice Chair: Mr. Meyers, are you ready to join us?

Mr. Meyers: Sure thing.

Vice Chair: Robert Meyers, ladies and gentlemen, is the Executive Director of Miami-Dade Commission on Ethics and Trust. And he's with us today from 10:30 to 11:00. And you have the floor, Mr. Meyers.

Mr. Meyers: Okay, I guess maybe if I can make a brief presentation and then answer questions you might have.

First of all, thank you for giving me the opportunity to appear in front of you.

I live in Broward County so obviously I have an interest in what goes on here. I can say most of the work I do obviously is in Dade County so I'm not -- I don't know the players and maybe that's a good thing.

But I wanted to tell you a little bit about our Ethics Commission and then talk about some things that might be of interest to you since you're pondering creating an Ethics Ordinance for elected officials.

We're part of the County Home Rule Charter so the voters in 1996 said we needed an Ethics Commission and we can talk about the reasons for that at some other time but let's just say there has been a fair amount of corruption in Miami-Dade

County over the years and I guess the public decided enough is enough.

So the voters created a full-fledged independent Ethics Commission; a five-member panel. As Norm was alluding to, we have quasi-judicial authority. The Ethics Commission can actually, through our advocate or prosecutor can bring complaints; self-initiated.

We don't need a member of the public or an employee to file a complaint. Somebody can give us a tip, a lead if you will, and we can do an investigation to determine that it should go forward and the advocate can file a complaint.

Which is unlike the state's Ethics Commission. The state's Ethics Commission cannot proceed unless a complaint is filed. Now granted, somebody could clip out an article from the Sun-Sentinel and send it in, and that could suffice. But somebody couldn't call up the Tallahassee Ethics Commission and say, oh by the way, something is going on in Broward County and we want you to take a look at it.

We can do that in Miami-Dade County. We didn't initially have that authority. That was something we fought for in my first year as Executive Director and I think it's a good thing to have for lots of reasons. People are not willing to come forward.

We do essentially four things; one is that we conduct investigations and file complaints before our Ethics Board.

Secondly, we give advisory opinions to people who come under our jurisdiction, and that includes all elected officials and employees in Miami-Dade County and all the cities in Miami-Dade County as well; about 35 cities.

It also includes people sitting on city and county boards and to some extent, people who are doing business with the County and local governments as well.

To give you a feel for that, we have issued probably 1,800 opinions in ten years; the last five years or so we probably have issued 300 opinions per year.

And it generally involves questions about anticipated conduct. We don't pass judgment on people through the opinion process. So if you have a question about your conduct; is it okay to vote on this matter and is it okay for my uncle to do business with my government, we can provide you with an ethics opinion.

To some extent, we have relieved the burden from the County Attorney's Office. The elected officials will ask us directly for opinions. I think the County Attorney is grateful for that for all sorts of reasons.

Another thing that we do and Norm kind of mentioned it in passing, we do training. And we train all employees with the

HR Department in the County. We train elected officials. We are mandated by a resolution to train County Board Members.

We go out to the municipalities and I would say in the 10 -- well, actually I have been with the Ethics Commission now for 11 years -- we probably conducted ethics training for just about every single municipality at least once. And sometimes the sessions are just for the elected officials. Sometimes it's for the elected officials and the board members and sometimes it's for the employees. But that's critically important.

I can't stress enough how important training is. The idea of being able to sit down with people, explain what the rules are, having a dialogue with them and also, I guess from a legal standpoint, putting them on notice. These are the rules. You've been apprised of what they are. You've been given an opportunity to ask questions and we expect you to adhere to them.

The other thing is that we publish our ethics opinions so people can read them and if they have a similar set of circumstances that would create a conflict; we would hope that they would follow the proper course of action. But as I said earlier, they can ask for opinions if they want to.

And lastly, we can recommend legislative changes. Things that we think would enhance good government, either in the County or in the municipalities in Miami-Dade County.

And last year we put together an Ethics Task Force which is looking at closing some loopholes and also maybe tightening and strengthening some of the rules on the books. And these were judges and lawyers and professors of government who sat around the table and have presented to the County Commission their wish list and some of those items are going in front of the County Commission as we speak.

So we kind of have our plate full. It sounds like we have a big budget but we have 15 employees with a budget of about $2 million; that could be shrinking -- a strong possibility of that given the budgetary issues we are having across the state -- across the country really.

But it's really not enough to do the kind of work we need to do considering we have responsibilities in 35 cities in the County.

Another thing that Norm touched on that I wanted to bring up as well is this dual jurisdiction problem where we have a local Ethics Commission, and we have the State Ethics Commission. And I think it's extremely unfair for an official or an employee to have to go before both boards.

I think maybe first in time is the way it ought to work. You know, if you file first in Miami-Dade County, that's the entity that hears it. Or if you file first with the state, let the state hear it.

There has to be some sort of primary jurisdiction thing because we have had a few cases where people have been charged locally in Miami-Dade County. They have been found guilty, they paid a fine and then somebody turns around and files a complaint with the state, essentially alleging the same charges.

And that most recently -- the one I am most familiar with recently had to do with the Chief of Police in Miami with his loaner Lexus. Where he got a vehicle from a Lexus dealership for 15 months and decided that he didn't need to report it as a gift or pay for it so he's driving this vehicle around for 15 months and he was charged with an ethics violation in Miami-Dade County. He admitted to it and paid a fine.

He was charged with an ethics violation at the state level; same basic charge. And then he was also beaten up by the -- this city also has a Civilian Oversight Board which also went after him. So I think that's an area of concern.

In terms of the parts of the Ethics Ordinance that I think have most impact on officials in Miami-Dade County; clearly voting conflicts is something we address on a regular basis, however we take a much different position than the state does.

We require anybody who has a conflict to leave the room; not participate, to absent himself or herself from the proceedings. Based on the fact the person is absent, we do not

believe the person has to file that disclosure form, disclosing a conflict an interest. Because in essence the person was not in attendance.

But if there is a discussion comes up and the person believes he or she has a conflict, that person must leave the room and cannot participate in the discussions. They do not have to disclose on the record what their conflict is. That's up to them whether they feel they want to get into it. We leave that as a call for the person who is on the Board, sitting on the dais, whether he or she wants to explain why he or she has to leave the room

The other thing is that we take a very broad view of what the term participation means. We say you can't participate or vote. And we're not just talking about participation at the meeting. We're talking about anything leading up to the decision and anything that occurs after.

Because you could have situations where an elected official is involved in trying to get something through and on the day of the vote, he or she decides, well I'm not participating or voting because I have a conflict. Well, the damage has already been done. So we look at participation pretty broadly.

One of the things that we're proposing, or this Ethics Task Force is proposing is right now if you have a voting

conflict, let's say you have a business partner and that business partner appeared before your board, clearly you would have a conflict. But once that relationship ends, there is no conflict under the County Ethics Code.

So we're saying the conflict should exist for at least another 18 months after the relationship ends. Because it seems kind of silly that somebody can sever a business relationship and the next day the elected official can vote on a matter involving his former business partner and then there's really nothing stopping him resuming the business partnership after the vote. So we think that's a loophole that needs to be closed up.

I guess -- three other areas if I could touch on briefly; one has to do with procurement and the role of the elected officials in the procurement process. And I am just going to be very frank. I see no benefit in having elected officials sitting on Selection Committees. I don't get that at all.

I really don't understand why elected officials should be involved in making procurement decisions, period. They don't do it at the state level. They don't do it in Washington. I think procurement decisions should be left to the experts who either work in the County, or people who come in from outside.

I think when you allow the elected officials to make those decisions, and forgive me, I know there are elected

officials here; I think you politicize a process that doesn't need to be politicized. I think also when you have lobbyists playing a role in this process -- and I can speak to Miami-Dade County so I can speak to Broward County as well -- but if you have lobbyists representing companies who want government contracts and those are the very same lobbyists who are getting people elected and re-elected you have created, in my mind, a problem. So if you take the elected officials out of the process, you de-politicize it to some extent.

We also have a Cone of Silence in Miami-Dade County which also eliminates the ability of the elected officials to influence, you know, either the Selection Committees or the County Administration.

Now, in Miami-Dade County elected officials can make the decisions about who ultimately who gets awarded the big contracts, but technically, they aren't supposed to have any contact with Administration or with the people who are proposing seeking government contracts until the Cone of Silence is lifted and that's generally lifted once the County Manager has made a recommendation to the Board.

The Ethics Task Force is also proposing a ban on all gifts from people who do business with the government; lobbyists, developers, bidders, contractors. Once again, not sure I see any benefit in allowing elected officials, or employees for that

matter, accepting gifts from people who do business with your government.

In Miami-Dade County, our rule is simply one of disclosure and it has to be at least $100. So right now the rule is if you accept a gift and of course, where there is no quid pro quo involved, you would have to disclose it if it's over $100. But there is no upper limit.

We've had elected officials -- this one elected official in a city two years running has accepted and reported, $10,000 gifts. I think that at a minimum we ought to cap the size of the gift, you know, government employees and officials can receive.

So like I say, and I keep saying we, I wasn't a part of the Task Force. The Task Force is recommending no gifts for all officials and employees in the government where it comes from people doing business with the government.

Now I do understand there is this quote "official capacity" exception where I'm in my official capacity where I'm at a groundbreaking or ribbon cutting ceremony and I attend a reception after that, would that be construed as accepting a gift and I would argue that it wouldn't be because you're there in your official capacity.

But if you're, let's say, at a Panther's game watching a game like everybody else and the ticket has been paid for by

some County lobbyist, don't see why you should be going there for nothing.

Another area that we get involved with the elected officials sometimes is doing business with your government. Miami-Dade County is an enormous government with 33,000 employees and there are opportunities with people to do business with the government. So what happens if an immediate family member wants to do business with the County and you are an elected official in Miami-Dade County.

Generally that's banned unless a waiver is granted and there is very open and transparent process whereby someone can seek a waiver. But the rule of thumb is if you are an elected official in the government and even a high-ranking administrative employee in the government, you can't have immediate family members doing business with the County. And the same would be true in the cities as well.

And I guess the last point is that we have adopted an amendment to our Ordinance maybe three or four years ago where we banned vendors, bidders, service providers paying for travel or travel-related expenses for officials or employees. That's one of those things where it's the appearance.

Where if you are accepting trips that bidders are paying for and just look at it from the standpoint of the bidder who pays for you to go to a conference or an event or what have

you and the bidder who doesn't. And then the bidder who gets the contract and maybe rightfully so was the one who paid and the other one doesn't and the other one thinks of course, if I had paid for his travel maybe I would have gotten that trip, so we have a ban on vendors and bidders and service providers paying for government officials and employees to travel if -- and once again there is a waiver provision there where the County Commission could waive it if they feel it's appropriate.

Those are really my opening remarks. I obviously have a lot more I could say but it's up to you, Mr. Chairman, if you want me to take questions now or talk more about the function and structure of the Ethics Commission, I would be more than happy to do that.

Vice Chair: Okay. Thank you. Anybody?

Let me just ask you, Mr. Meyers. The opinions that you covered, are those binding?

Mr. Meyers: Yes.

Vice Chair: So that if you say it's okay, it's okay.

Mr. Meyers: Right.

Mr. Fink: Even if the federal government comes in?

Mr. Meyers: Well, good question. We say that this is an interpretation of our County Code. And we say at the bottom of our opinions, that there's a disclaimer that you need to go to the State Ethics Commission to get an opinion from state law. We

don't interpret state law. We don't interpret federal law. We are interpreting the County Ethics Code and Municipal Ethics Code.

Vice Chair: So asking you for an opinion about a Broward County issue would not help, right?

Mr. Meyers: Probably not.

Vice Chair: Okay. Anybody?

Mr. Bakalar: How often does the Dade County Commission waive itself for things like business travel -- I'm sorry, travel paid for by --

Mr. Meyers: You know, it's happened. I can recall a couple of occasions for humanitarian reasons where they were going to go up to New Orleans for Hurricane Katrina and they were going to take a caravan and one of the rental car companies -- Hertz or Avis has a contract with Miami-Dade County and they thought under those conditions it would be okay.

Or American Airlines is a County vendor and they were going to fly down to Haiti to deliver supplies to the people that were devastated there so those kinds of cases. Those are the only once I can recall. But it's very rare, yes.

Mr. Bakalar: One other thing. In the paper a couple of weeks ago, there was an article about lobbyists versus consultants. Can you expand on that?

Mr. Meyers: Well, I think the paper got it wrong. We don't see a distinction between a lobbyist or a consultant. It's really the function of what they are engaging in; you can call yourself a lawyer, you can call yourself an architect, you can call yourself a lobbyist, a consultant, but if what you're trying to do is influence a third party on behalf -- if you're trying to influence a decision maker in government on behalf of a third-party and there's not an exemption that's been carved out for you in the law, you're covered by those lobbying rules. And sometimes people just focus on that term lobbyist when they really shouldn't.

Vice Chair: How do you draw a distinction between a lobbyist and a lawyer?

Mr. Meyers: Well, we don't. And I know it gets the lawyers very angry. We're really looking at the function of their performance. If they're representing a client and they are trying to get -- usually involving some -- it's usually a procurement matter because land use -- we said that if it's a quasi-judicial proceeding and all you are doing is appearing at that quasi-judicial proceeding, you are not considered a lobbyist.

But let's say you wanted to meet with staff beforehand, you would be lobbying and you would need to register, assuming you could do that. There's something called the

Jennings Rule. I don't want to bore you with that but there are rules that prohibit ex-parte communication and quasi-judicial land use proceedings to begin with.

But generally speaking, if you're a member of the bar -- I'm a member of the bar and I understand that, but you are under Miami-Dade County -- the Ethics Code -- you are considered a lobbyist if you are engaged in certain activities.

We have even determined that sales reps for drug companies are lobbyists when they are appearing in front of Jackson Memorial personnel to try to get contracts for their employers so we have taken a very liberal view of the definition of lobbyist to a lot of peoples' chagrin.

Vice Chair: Ken, did you have something?

Mr. Fink: No, sir. You are telling me -- if I understood you correctly, a sales person for a company is considered a lobbyist?

Mr. Meyers: That's correct, right, because they are trying to influence governmental decision makers to buy products for their employer.

Mr. Fink: So that's quite a bit different from a company going out and hiring a third party to influence a decision maker –

Mr. Meyers: Right.

Mr. Fink: But when a company -- when private sector hires a sales person and they are an employee, that is not a lobbyist, that's a sales person.

Mr. Meyers: Well, we've said that there are certain employees where you would be right, where let's say you were the IT professional for the company or the HR professional and you are called in to answer some questions about the company.

But what does sales people do? They try to market their wares for their company. The Ethics Ordinance says that those people, based on an opinion we gave, are considered lobbyists.

Mr. Fink: By that definition a copier salesman is a lobbyist.

Mr. Meyers: That is correct, in Miami-Dade County.

Mr. Fink: That's absurd.

Ms. Cepero: If I want to clarify, I think in your example, you are referring to Jackson Memorial and that is because it's a County hospital. I don't know if you were clear on that distinction.

Mr. Fink: That's a direct employee of a company. That is not a lobbyist by my definition. That's not a consultant by my definition.

Mr. Meyers: Under the County --

Mr. Bakalar: Under our County definition. Under this Ordinance -- I keep going back to this and it seems like anyone who is basically employed to influence a vote is considered a lobbyist so that would be an attorney or anyone talking to a County Commissioner who would seek to modify a vote. So what am I missing?

Mr. Fink: Well, because I think there is a difference between a W-2 employee and 1099 lobbyist, to be honest. I mean that's --

Mr. Bakalar: I think we should probably govern ourselves to what is written.

Vice Chair: I am confused by that because we have a -- as president of an engineering company sitting in the audience today. If he appears on behalf of his company to seek a contract, is he a lobbyist?

Mr. Meyers: Yes, under Miami-Dade -- he is a principle of the company. It's not really his company, I mean it's a separate legal entity. I am just telling you the opinion, I am not saying I agree with the policy.

Vice Chair: I understand but the principle of the company and so by representing his company, he becomes a lobbyist?

Mr. Meyers: In Miami-Dade County he would be a lobbyist and he would have to register.

Vice Chair: Is he considered a lobbyist in our County?

Mr. Teitler: I believe under our ordinance.

Mr. Bakalar: It's written here.

Vice Chair: Okay. I just learned something.

Ms. Cepero: It's the state law as well.

Vice Chair: Robin.

Ms. Rorapaugh: Procurement. In Broward County we have Selection Committees that the County Commissioners serve on. The County Commissioners actually volunteer to be on. Every Commissioner who has given testimony about procurement has felt it was their obligation to be a part of that process. Miami-Dade County has no Commissioners who participate in the Selection Committees.

Has that always been true of Miami-Dade County or was that the result of the Ethics Commission?

Mr. Meyers: No, that was a practice that existed long before the Ethics Commission.

Ms. Rorapaugh: We also have a Cone of Silence in Broward County.

Mr. Meyers: Right.

Ms. Rorapaugh: I have no idea how that works but I know it's bandied about.

As a citizen in Broward County that overlooks Miami-Dade County, is there any recommendation of other codes that we should go to, to see if there is a way to insulate procurement policies from political manipulation?

Mr. Meyers: Well, you know there are some model procurement codes and there is an organization that is called NIGP, the National Institute of Government Purchasers, I think that's what it stands for and I know Orange County has been a model for procurement, and some other counties too. But if somebody checked out the NIGP website, and there's a local chapter here. It might not be a bad idea to talk to the president of the local chapter. But there are some model procurement codes that try to deal with insulating, if you will, the procurement practice from politics.

Ms. Rorapaugh: And as a follow-up, I know in our Charter, that the Charter changes that we made in the last election, one of those was a non-interference clause between County Commissioners and County employees, specifically thinking in terms of procurement and other such deals. Do you guys have that in Miami-Dade County?

Mr. Meyers: Sure.

Ms. Rorapaugh: Has it ever been utilized?

Mr. Meyers: It comes up all the time. The question is about enforcement. Our Ethics Commission really can't enforce

Charter violations so it's really given over to the State Attorney and they are reluctant -- I can recall one case in 15 years, it was actually a City of Miami case where they actually went after an elected official who interfered in the Administrative process.

Now, we get complaints like that at the time -- I should say we get complaints like that where we get a County Commissioner calling a department head directly and trying to get the department to do something and not going through the manager.

We are limited on what we can do there. But it exists in the county and it exists in most of the cities in Miami-Dade County as well.

And also the Cone of Silence is another method to try to protect the staff and the Selection Committees from any sort of interference by the elected officials.

Ms. Rorapaugh: And then on enforcement. What is your -- I know you all have enforcement ability.

Mr. Meyers: Right. We can fine people, we can reprimand people, we can't remove them from office, we can't fire people but we certainly can sit down with the Chief Administrator of that government and say look, this person did something pretty egregious. You may want to think about that.

We are looking to essentially make them disgorge their profits. We've had a number of cases where people have unjustly

enriched themselves by an unethical act and what they wound up doing was paying a small fine and they kept the profit and that seems wrong to me.

So it's more, if you will, the embarrassment, the shame of going through this very public process of the -- you know the media tends to pick up on these ethics charges, especially if it's against people who have some visibility in the community.

So we kind of hope that will defer people from committing unethical acts because it's up to the public whether or not it's working in the County.

Mr. Wolfe: Since you are a resident of Broward County, you read the *Sun-Sentinel, The Miami-Herald, The New Times*, whatever. If you were sitting with us as a citizen volunteer, what would you suggest -- two or three things for us to focus on in terms of what our tasks are?

Mr. Meyers: Well, I really think procurement is very important because of the size of procurement in a large government like Broward County.

I think people have got to feel confident that those decisions are done openly, fairly, that there is inclusion, that there's due process. That there is, like I said, that is certainly one area. Making sure that procurement practices can stand the test of openness and transparency.

And I think it's also very important that -- and this is an area that we have been grappling with, is how do you deal with these areas of improprieties? Do you try to legislate some sort of an appearance of impropriety standard?

I mean, oftentimes, we will have people that have committed no ethical breach but there's all kinds of backlash against what they've done and I think that's where maybe education comes into play. Explaining to people who are in office or thinking of running for office or employees. Why these things look wrong.

Put yourself in the shoes of the taxpayer, or the resident or the citizen. And even though it may not be a legal breach, it may not be criminal, it may not even be a civil violation, it still looks bad and you want to defend yourself in matters like that.

So I think having some sort of training and education, you know, workshops, programs for people, focusing on real conflicts perception of conflicts is critically important and I think procurement -- and then I also think this -- and I touched on it earlier -- on banning gifts.

I just don't see -- the public is not going to accept elected officials accepting gifts, even if they disclose them all and this is public information, but we have one city in Miami-Dade County where every year they report thousands and thousands

of dollars in gifts, you know, going to operas, and concerts, and sporting events and these gifts oftentimes are being paid for by people who are doing business in front of their city. Just looks horrible.

Mr. Wolfe: Do you ban gifts for spouses too?

Mr. Meyers: We don't actually. I know the state does. I think we probably ought to. But ours is just for the elected official.

So those would be the three areas I guess.

Vice Chair: Robin.

Ms. Rorapaugh: Do you guys have an IG function?

Mr. Meyers: We don't. There is a separate Inspector General in Miami-Dade County and he at one point reported to the Ethics Commission but about three years ago his duties were changed and he kind of reports to the County Commission.

Even though Miami-Dade has an Audit Department, he also has auditing functions. He can engage in any sort of audit of any County contract essentially for any reason. Wherever a County dollar is spent, he can engage in the auditing function.

The County actually assesses one-quarter of one percent to anyone who enters into a contract with Miami-Dade County and that goes into an audit fund so the IG can engage in these random audits.

The IG is also involved in trying to detect and in trying to, I guess, prevent fraud so he is involved a great deal with the State Attorney's Office, going after employees who have engaged in criminal misconduct.

I would also add that the Ethics Commission works closely with the State Attorney's Office too because there are times that things might look like they are criminal and it turns out it's not criminal. Other times it starts out as a ethics investigation and it becomes more serious so we would bring in the State Attorney's Office.

But we have a very active and effective IG in Miami-Dade County. His limitation though is that he can't go into the cities. He's limited to focus on where County dollars are spent so if County dollars are spent in the city, fine, but otherwise he's limited to County contracts and agreements and things like that.

Vice Chair: Just quickly, can you give us your view on charitable solicitation and campaign solicitation?

Mr. Meyers: Elected officials seeking charitable -- I mean, trying to raise money for non-profits?

Vice Chair: Uh huh.

Mr. Meyers: We actually have an exception in our gift rules. And it really comes from some opinions that the Ethics Commission issued where elected officials our allowed to solicit

to the benefit of a non-profit as long as they do not stand to benefit or their staff does not stand to benefit so they can solicit, you know, in their official capacity, using letterhead, using government resources, for the betterment of 501 C-3 non-profit.

It kind of comes out of some ethics opinions where we said, look, we understand the role of an elected official is to do good in a community and if you can identify non-profits that are also trying to do the same, there is no reason to why we should ban those individuals from seeking to raise money for those non-profits.

As long as there is a benefit within the community, we -- my -- well, actually it hasn't come up, but if this person was trying to raise money for a non-profit in let's say, Washington, would the law allow them to do it? I guess it probably would. So yes, we do specifically allow gift solicitations for non-profits.

Vice Chair: And campaign contributions as well?

Mr. Meyers: Campaign -- there are no limits -- I mean the limits are just the state limits of $500 and you can accept corporate contributions.

The County recently changed that rule too actually. We used to limit contributions to $250 and didn't allow elected officials to accept contributions from corporations.

The Task Force has recommended actually, banning contributions from vendors and lobbyists and people like that but that hasn't made its way to the County Commission yet. I'm not sure that it will.

Vice Chair: Mr. Meyers, I see our time has expired.

Mr. Meyers: Well thank you for having me. If you other questions, you can e-mail me. I work through the County Attorney's Office.

Vice Chair: We have another segment we have to go to -- the public testimony segment. Thank you for coming and for your appearance and for your presentation. It was great.

Mr. Meyers: You're quite welcome. Thank you.

Vice Chair: Is there anyone who -- have you signed in?

Ms. Keeler: I will. Brief introduction; my name is Rebecca Keeler and I am a former Assistant County Attorney here for Broward County, and in my current life though, I am a Ph.D. candidate at Florida Atlantic University and the focus of my studies has been public sector ethics. My dissertation has to do with ethics transparency in government contracting.

Vice Chair: Could you talk into the microphone please?

Ms. Keeler: Oh. My voice doesn't carry that well.

Did you hear what I said?

Anyway, I had three things I wanted to share with you just based on what I heard here this morning. We mentioned NIGP, the Government Procurement Profession Organization. The local chapter is housed at Florida Atlantic University and it is currently headed by Dr. Cliff McCue.

And our school has been working hard on developing a procurement course of study; government procurement course of study. And they have developed quite a series of courses and actually certifications. And if you are really interested in exploring some of the policy issues around public procurement, I would suggest that you try to get Dr. McCue in here to visit with you. That's one thing.

A suggestion for you to think about is not just, you know -- the technical rules about what is right and wrong, but also measures to affect a cultural change. Okay? And a cultural change does not occur just by passing rules and one-time handing somebody a paper that says here's what the rules are. This does not become embodied as a part of what the organization is about.

So I would suggest you look at recurring and revisiting what the rules are, for example, an annual you know, revisiting of where we've been on the ethics map and how have these rules -- the rules that we adopted last year -- how they worked and what are some of our needs, what's worked well, and so on.

In addition to, of course, the training and the training shouldn't occur one time. The training should occur over and over and over again.

And then just -- I haven't really thought this one through, in terms of disclosure, we've heard from basically everybody that transparency is a major issue. You might look at what disclosures have to occur in the context of quasi-judicial proceedings for land use decisions. And think about whether there might be some application there in the procurement context, you know, at the Board level.

The Chair: I neglected to tell you that you have three minutes and you have one minute left.

Ms. Keeler: I'm done. I'm finished. That's all I had to say.

Vice Chair: I should have told you that up front.

Ms. Keeler. Well, those were the three things I had to say.

Vice Chair: Thank you so much.

Ms. Keeler: Okay.

Vice Chair: Anybody else from the public that would like to speak? Anything? No. Okay. We used the time to good advantage.

Reviewing what we've heard today. Anybody?

Mr. Bakalar: I think the procurement suggestion is a good one. I don't know if we need to vote on scheduling to bring someone in to talk about it. I guess if we have consensus on it.

Mr. Fink: I agree on the possibility of getting this gentleman to come down and talk about procurement because it seems to be a major issue in terms of transparency and exposure; I think it's one of the things we need to focus on so I think his suggestion is good. If Monica can do that, it would be great.

Vice Chair: So having reached this point in our meetings, are we pretty much reaching a consensus as to where we are going with this projected Ethics Code for the Broward County Commission?

Ms. Rorapaugh: No.

Vice Chair: Have we come to any conclusions about where we would like to go, what the major areas are, and are we getting there?

Mr. Fink: Yeah.

Commissioner Brunson: Just a suggestion that I would make. That, you know, maybe after we hear all of these presentation that everyone put down, like their top two or three concerns, and then we bring them all together and see where we are with it. Because there have been so many issues that we've heard but maybe if we compile a list and start narrowing it down

or figuring it out what's the most important. That would probably work out.

Ms. Cepero: Commissioner, I had prepared a list and distributed it and I will be happy to do that if you guys want to add more things to it.

So far the list has suggested issues for discussion that you guys have all brought up: charitable contributions, fund raising solicitations, Ethics Commission Academy, some formal requirement for newly elected officials, financial disclosure forms, gifts, lobbying, outside employment/compensation, political campaign financing, and fund raising solicitations, procurement, and transparency.

Ms. Rorapaugh: Sweetie, I can't follow that list unless you tell me where it is.

Ms. Cepero: It was -- I sent that out after the May 13th meeting.

Ms. Rorapaugh: So it's in electronic format?

Ms. Cepero: It's in an electronic form and I would be happy to send that particular piece at back out to you guys so you will have it more recent and fresh.

Commissioner Brunson: Can we add to it?

Ms. Cepero: Absolutely.

Commissioner Brunson: I would like to add to it. One of the things that was mentioned today that I think would be

effective is the whole issue of establishing like an Officer or someone who people could call.

Because someone had mentioned that when you get an attorney's opinion it is sort of different than getting a regular person's opinion. The first gentleman, Mr. Norm, that spoke, and he gave an example how an attorney gave one opinion but then when the person called his office, they gave another opinion so maybe to add to the list some type of venue where people can call to discuss a concern or to ask a question.

Mr. Fink: I would like to see if we can add discussing the recommendation that Code of Ethics be expanded to staff as well to the Commissioners.

Ms. Rorapaugh: And can we reserve the right to reopen this discussion when we have the full Commission here, because I think there are some people who are absent that have some pretty strong opinions.

Mr. Fink: Possibly I would like to suggest that along the lines of what Commissioner Brunson said -- if you take that list and expand it to whatever number of items there are, and then send it out electronically and ask us to respond by prioritizing our concerns -- ranking them from 1 to 15, whatever the number is, so that we all will get a better idea s to which ones are the most important by consensus.

If we all rank procurement as No. 1 and we rank charitable contribution solicitations as No. 15, we will have an idea in which order to address these. So that we are focusing on the things that concern us most in the beginning.

Vice Chair: I think that Mr. Ostrau made it clear that the current state law has a lot of holes in it. And I think we are going to be hard pressed to try to plug all the holes. Maybe something more inclusive than just trying to put your finger in the dike wherever a hole seems to have appeared would be a more global look at the ethics package rather than individual pieces and trying to fit them all in a framework of legislation which, you know, when you have that type of framework, the other side tries to find ways to avoid them.

And that is one of the problems I have with trying to draft ethics legislation, that mostly what we are trying to do is tell them what they can't do.

I think there has to be a flip side which makes it clear that this type of conduct is okay if there is such a thing, ethically, and of course there is. Because we -- I think generally speaking -- I don't have three minutes so I can talk all I want.

Ms. Cepero: Yes, sir.

I think -- public officials generally, I find, are ethical. And there are those who breach the Ethics Code and

those are the ones that the Ethics Code is written for. You have to tell them what they can't do.

Mr. Fink: I think you and I are saying the same thing. You can't legislate morality.

Vice Chair: Absolutely not.

Mr. Fink: People know whether what they're doing is right or wrong.

Vice Chair: Pretty much.

Mr. Fink: It's just a function of whether they think they are going to get away with it.

Vice Chair: Yep.

Mr. Wolfe: Just a question on procedures and stuff. I don't think we're right there yet, but when we try to wrap our arms around all these issues we want to propose to the Commission or to the voters, the mechanics of how we do that.

I suppose at some point in time we rank what our issues are in some order or are we just going to go through them and then staff write an Ordinance or how is this going to work? I guess that's my question.

Mr. Teitler: Well, I understood there would be subcommittees as well, so the subcommittees would probably --

Mr. Fink: That was up for debate as to whether there was going to be subcommittees.

Mr. Teitler: But there would be some process of you know, drafting what it is that you want. And my role is to provide counsel and provide assistance in research and drafting as well. But I think the bulk of the preliminary work would be done by the Commission and subcommittees of the Commission.

Mr. Wolfe: I mean, are we going to draft like an outline of, let's say for example, gifts are to be prohibited between Commissioners at a certain level; blah, blah, blah, and that would be put in writing and then that would be put in a legalese or -- I'm sort of in my mind, I think, trying to figure out how we're going to do this.

Vice Chair: We are not going to actually draft the language of the proposed ordinance, right? I mean we give you an outline and ask you to draft that.

Ms. Cepero: Mr. Chair, what I would suggest would probably be for organization purposes, we will look to start with the list and as you guys give some specific direction to staff, we can then come back with that guidance that you have given us and put forth in the legal terms and narrate it in English, so to speak, and hopefully they will be very close to the same, and then bring it back and you guys can formally vote.

It's obviously the will of the Chair and the Commission here, but to help ease the process that's how we could proceed. And we would be bringing back the proposed language

based on the direction you give us with the parameters, restrictions, or guidance that you would like to include.

Vice Chair: I think what I would like to avoid is taking snippets from this Ethics Code and from that Ethics Code and cobbling them all together in our Ethics Code. I think I would like to look at something that we create rather than that we use a cut and paste situation. Hopefully we will be able to do that.

Mr. Teitler: Right. You would get the ideas from all the resources that you've been provided. And then create what you feel is necessary.

Vice Chair: Right. Anyone else? Monica?

Ms. Cepero: Would you like me to recap?

Vice Chair: Please.

Ms. Cepero: It's our little routine. I would feel remiss if I didn't tell you what I'm going to send you.

Vice Chair: Okay.

Commissioner Brunson: Monica, before you recap, can I just add one thing to your recap?

Ms. Cepero: Certainly.

Commissioner Brunson: I believe Mr. Norm mentioned, or someone mentioned the NIGP in the listing of the Procurement Codes. Is it possible for us to get a copy? Thank you.

Ms. Cepero: Absolutely. That's on my list already. Yes.

Ms. Rorapaugh: And can I add to your list and it may be on the Miami-Dade web site; the recommendations from the Task Force to the Ethics Commission.

Ms. Cepero: Yes, I think I have that on my list. I will certainly add it. Yep. I got that. It's one of my deliverables. Miami-Dade Task Force.

Okay. What I have, and please tell me if it's not something that I have done accurately but I have here to pull what Mr. Ostrau spoke about; the Connecticut Supreme Court case.

Some of these deliverables are not things that you specifically asked of staff, but I thought given the testimony and the direction there that you would like to have that information as background.

The Connecticut Supreme Court case regarding the prohibition of vendors and lobbyists and political campaigns; the City of Gainesville Ordinance and law that was discussed by Mr. Ostrau as well.

Also we discussed the campaign finance law and the preemptive nature of that statute so I was going to have Rob pull some information on that for you. The Florida statute on nepotism; that was discussed, the Miami Beach case.

Also, Mr. Ostrau had mentioned that he would give to Mr. Teitler some information on other areas and jurisdictions and their disclosure requirements. He did mention the City of Los Angeles. I know in a former e-mail I had provided that information, but we'll look back to make sure there's something we have not missed and provide that.

The Miami-Dade Task Force recommendations that are going before their County Commission. I want to make sure that I've already sent you in our procurement information, any Code of Silence issues, and if not, I will send that out to you as well. The NIGP, the National Institute of Government, I don't know if it was Purchases or Procurement. So forgive me for that. Is it procurement?

Ms. Keeler: I believe its procurement.

Ms. Cepero: Procurement. And I will get you information on that as well. And I will also draft a letter for the Chair's signature asking for Mr. Cliff McCue or his designees to come and speak and address this Commission.

And then lastly, I was going to resend out the list of issues that you guys have all addressed with the addition of an Ethics Office or some sort of hotline or some sort of venue for folks to go to, and then also to look at the expanded nature or the recommendation to include staff in any proposals.

I did have a question about the ranking. Do we -- I heard Mr. Fink request that but I don't know if I heard a consensus from the Commission about sending that out to rank issues so I wanted to get clarification on that.

Vice Chair: Any ideas? At this stage --

Mr. Bakalar: Maybe a tiered thing. They are all important. I hesitate to just do 1 through 15. Why don't we just come with our ideas and talk about them at the next meeting and then by consensus, tier them.

Mr. Fink: But what I think we are trying to do is rank them in the order that we would like to talk about them because we are going to talk about them and what happens in any kinds of these meetings, the first five or six issues that you talk about, you delve into them in depth and as you get further down the line, they start to get glossed over because you've covered it, or you -- so I am just suggesting as Commissioner Brunson said, which was her idea, and this is just expanding on it, take the 15 or 16 things and rank them so we discuss them in the order that we all feel are the order of importance.

Ms. Coward: (via teleconferencing) This is Alfreda. I agree that we should prioritize them.

Vice Chair: We didn't know we had somebody on the phone.

Mr. Fink: I didn't take their name in vain. I don't think.

Ms. Cepero: So am I hearing consensus to rank? Okay. Once I finalize this list with those additions, I will include that.

Mr. Fink: By all means is that a final list. That is where we are at the moment.

Ms. Cepero: No, no, no. It's just for guidance. And that's where you guys have all given me feedback through this process. And I think two meetings ago if I'm not mistaken on my dates, is when we went around the table and each of you Ethics Commission members had given one or two issues that you wanted to include on this list. So that's where this list actually came from.

I didn't know if, given Mr. Ostrau's testimony today, if you did want to include anything about contemplation of honest services, local kind of statute or not, to add to the list. If not --

Vice Chair: It's something we should talk about, I think. You might put it on the list as something we can talk about.

Ms. Cepero: And that can be part of the prioritization and whatnot. That's it for me.

Vice Chair: I need -- other business. Approval of the minutes of 6/10.

Mr. Fink: I make a motion that we approve the minutes of June 10, 2009, as submitted.

Mr. Wolfe: Second.

Vice Chair: Moved and seconded; all those in favor? Opposed? Unanimous. Okay. Is there anything else? Anybody?

Mr. Fink: I make a motion to adjourn.

Ms. Rorapaugh: I second.

Vice Chair: Motion and second to adjourn. We stand adjourned.

(Adjourned at 11:17 a.m.)

Minutes
Broward County Ethics Commission

August 12, 2009

MEMBERS: City Commissioner Neal De Jesus, City of Cooper City - Chair
City Commissioner Carl Shechter, City of Pembroke Pines – Vice Chair
Howard Bakalar
City Commissioner Felicia Brunson, City of West Park
Washington D. Collado
Alfreda D. Coward, Esq.
Kenneth Fink
Robin Rorapaugh
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Mark Herron, Esq.
Dr. Cliff McCue, Ph.D., FAU
Peter Moor, Florida Institute of Consulting Engineers (FICE)
Victor Pujals, Vice President, Camp, Dresser & McKee (on behalf of FICE)
Leah Von Leu, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on August 12, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

The Chair: Good morning. Welcome everyone. If you all could check your microphones, make sure they are on. Very good. People on the other end appreciate that.

I would like to welcome everybody and call this meeting to order.

For those of you here to speak this morning, we appreciate you being here and it's a pretty tight schedule. We have 30 minutes allotted for each speaker so we will try our best to stay on time and respect everyone's

time to speak behind you. And I ask that the Commissioners do the same in respecting that time so we can give everyone an opportunity to ask questions of our guests.

Yes, can we have roll call?

(Roll call was taken at this time by the Real-Time Reporter.)

The Chair: Thank you.

Mr. Herron, would you join us? Thank you for being here with us today, sir.

Mr. Herron: Thank you and I apologize for not being here last time. My wife was ill. And I appreciate you rescheduling me for today.

I have a relatively short presentation. Hopefully it will engender some questions.

I've tried to study the history of this Commission and why you are here. I've tried to do my own little bit of research. It's interesting that your sole purpose is to develop a Code of Ethics for the Broward County Commission. It's not a Code of Ethics that applies to people and all elected officials in Broward County and as I'll explain later, from a ethics practitioner's point of view, that causes a few problems, at least for me.

Let me just tell you right now, I used to be on the Commission on Ethics, I served on the Commission for four years and since that time I play defense for the most part. And when I say "play defense," I defend public officials who are charged with ethics offenses and I also advise public officials, governments, lobbyists, people who interact with public officials as to how to avoid getting in problems.

Again, I play defense. My advice that I give is very – depending – when I'm playing defense for a public official, I'm trying to expand what the Code of Ethics says or doesn't say and I'm advising and being very conservative and saying "you really don't want to go there."

As we sit here today there are a number of ethics laws that are out there that are already applicable to the Broward County Commission and if I'm plowing some ground that you've heard, I don't want to dwell on it but there's a lot of ethics laws that are out there that already apply to the Broward County Commission as well as to all public officials.

For example, for Broward County Commissioners, they are required to do a full and public disclosure of their financial interests and that means assets, liabilities, property that they own.

There are already limits on the gifts that they can accept from lobbyists, the principals of lobbyists, the partners, the associates, the employees of lobbyists.

Now, one of the things that was pointed out to me when the Legislature adopted this gift ban and it was adopted in response to a bunch of legislators going on trips and government officials that were going on trips that were paid by regulated utilities.

The unintended consequence of that act was that we prohibited gifts so where did all that money go? All that money that was being spent on gifts went over to campaign contributions. And that same unintended consequence has occurred with the Executive Branch No Expenditure Law which was passed by the Legislature in 2005 and the Legislative Branch No

Expenditure Law which says you can't give any gifts to certain executive branch officials and you can't give any gifts to Legislative staff or legislators.

And again, where that money flows – that money flows – and has flown to political contributions in politically related expenditures.

The Code of Ethics also prohibits a member of the Broward County Commission from doing business with his own agency and it prohibits him from having an employment or a contractual relationship with an entity that is doing business with his or her agency, or that is subject to the regulation of the Broward County Commission.

It prohibits misuse of public position and disclosure and use of information that is confidential. The current Code also prohibits voting on matters which allows private gain of the public official, the public official's relative, the public official's employer, as well as the public official's business associate.

If there is any need for change that perhaps you might want to consider at this Commission, in terms of the special rule for Broward County, is to have the public officials disclose if there is any benefit to those classes of people, as opposed to a special private gain. That special private gain language is somewhat problematic in the sense that – it's kind of like the United States Supreme Court Justice said about pornography – I know it when I see it.

Often times, public officials don't know special private gain when they see it. Nor do their attorneys, who advise them as attorneys to the Board.

The current Code restricts lobbying by the public officers for a period after two years after leaving office and it also authorizes local

governments like Broward County to have their own additional ethics requirements.

When I looked at the Broward County Charter, one of the things I noted is that there is one provision already in the Broward County Charter that goes beyond what the state Code of Ethics says. There is a provision in Section 2.05 (e) (1) of the Charter that requires a Commissioner who recuses him or herself from voting to step down for the dais and leave the room. That's not a requirement of the state law to actually step down from the dais and leave the room.

It's a good practice. I know I did it when I was a member of the Ethics Commission. But it's not exactly a requirement. And there's punishment provided in the existing Broward County Commission for that violation.

My view, again as someone who deals in this area of governmental ethics and Code of Ethics is that the current Code of Ethics is a viable Code and when presented with the complaint, the State Commission vigorously investigates it and resolves within the limits of the law.

Now, I don't want to second guess what the voters of Broward County had in mind when they voted on the Charter Amendment that brought this Commission into existence. You guys know that better than I do. I'm 450 miles away.

Nor do I want to go into the mind necessarily of the Broward County Charter Commission that put that issue before the voters, but I think perhaps that they might have been thinking beyond what I traditionally think is ethics and beyond what those who consider themselves ethics lawyers or practitioners.

I think they were addressing a different issue and I think they were addressing what I think is the biggest ethical issue that is before government, whether it be Broward government or any governments that are out there today. And that's the perception that government is "pay to play."

That is what I think – at least maybe you have the authority in terms of dealing with this issue to go after and address.

In recent years, grand juries in the State of Florida have issued a series of reports known as presentments that express concern about the relationship between political contributions and governmental action. This has traditionally not been with any of Florida's ethics laws.

The Ethics Commission has opined that "Campaign contributions are a special class of gifts, permitted elsewhere by law, but limited in amount."

Generally, we do not believe the Legislature intended a campaign donation which falls within the prescribed dollar limits to be in violation of the Code of Ethics.

We can envision instances in which they would, however, such a case in which a gift was given based upon an agreement or understanding that official conduct would be influenced thereby.

Yet campaign contributions by those with interest before governmental bodies have eroded public confidence in our public officials and their ability to do jobs in the interest of the public.

Let me cite you some statements from these various grand jury reports. In a report on an investigation of the Jacksonville City Council and their

compliance with the requirements of the government in the Sunshine Law that was issued in January of 2008, the Duval Grand Jury noted,

> "Much of the declining public confidence in public officials is attributed to the belief that decision making is influenced by political lobbyists and campaign contributions. Consequently, local government can do more to ensure that this perception does not exist.
>
> Ordinances can be passed that eliminate the perception that public officials are repaying persons or entities who contributed to their campaigns or who provided gifts. The Grand Jury doubts that simply capping the amount of such gratuities will eliminate the present perception.
>
> Moreover, passage of proposed ordinances should be preceded by a spirited public debate so that the perception that government does not hear the people is significantly lessoned."

In Orange County there was an investigation of the political fundraising that was undertaken by members of the Orlando/Orange County Expressway Authority. And its solicitation of contributions for members of the Authority from vendors for the Authority.

And the Grand Jury in Orange County said this:

> "Soliciting funds from vendors to an agency on behalf of a candidate who is a Board member of that agency should not be tolerated by the public. Such solicitation of – and I am going to change the acronym to English – such solicitation of the Authority's vendors must stop immediately in order to regain the trust of the public.

Political fundraising reform state-wide should be implemented to put a stop to the practice of this nature. Reform by the Authority is also necessary. The pay to play perception generated by the fundraising activities of the Chairman and members of the Authority should stop immediately.

All solicitation of the Authority's vendors generated by a member of the Board of Directors, or the staff of the Authority should be prohibited. Only then will the appearance of an organized shakedown of the Authority's vendors come to a half. The Authority's vendors and their employees should be required by the terms of their future contracts, to disclose to the Board of Directors when they voluntarily contribute to the campaign of the sitting member."

And finally, in its 2006 investigation into the business practices of the City of West Palm Beach, the Palm Beach County Grand Jury found the timing of political contributions occurred in conjunction with the presentation and consideration of development of projects by the city.

Quote: "Some contributions were made in anticipation of submission of development of projects. Some contributions occurred within days of votes before the Commission or on the same day that the City Commission voted. Others were made while the decision, approval, or votes were pending on the development of projects."

The Grand Jury also noted the ability of developers to bundle contributions. It observed these amounts, although they run into thousands of

dollars, are small compared to the large profits to be made and are easily considered a cost of doing business.

The Grand Jury went on to say:

> "When contributions are bundled, the playing field is not level. Clearly, the large and powerful developer can out-contribute any small business. The large and powerful developer can purchase the votes needed for the permits and variances unlike the smaller businesses that cannot compete. A limit should be placed on the amount attributed to one individual or entity."

These aren't my words. These are words of Grand Juries around the state. Just to note in the real world how this comes to light. In little old Dixie County which is a place known for corruption over the years in Florida legal circles, there was an on-going Federal corruption case that is now concluded and resulted in a Jury verdict of guilty against two former County Commissioners and a former building official.

An undercover F.B.I. agent sought approval for a development from the County Commission and he offered in return a yachting trip to the members of the Commission. The conversation between the undercover agent and the County Commissioner was recorded on tape.

On the recording the former County Commissioner declined the yachting trip but then he was heard saying, "We would just prefer to have the cash to help with the upcoming election campaigns."

It's my view that perception that government has become a pay to play proposition is the most significant ethical issue of the day. Addressing that

issue and restoring the trust of the public should be job one for anyone concerned with ethics in government.

Now, briefly there is a way to address this issue through ordinances. The State of Florida has addressed this issue in part in terms of prohibiting contributions to the Governor and members of the cabinet or limiting contributions to the governor and members of the cabinet, depending on which statute you look at – for people seeking bond work, the Division of Finance, and people seeking to do work for the Florida Housing Finance Corporation.

In terms of trying to address this situation, I would suggest consistent with what the Grand Jury has done, you might want to examine who gives to contributions, who gives to campaigns in Broward County, Broward County Commission, when that money is given. And posit why is that money given. I think that is part of the engagement in the spirit of public debate that the Duval County Grand Jury has suggested.

A couple of ways to address this issue is that you could propose an Ordinance, that said those who are seeking to do business with Broward County are precluded from making contributions to candidates of the Broward County Commission once they have responded to a request to provide services, while providing services to the County, or for two years thereafter. That's kind of modeled on what the state has done with respect to the bond business and the housing finance business.

I think you could potentially develop a similar rule or ordinance for amendments to the local comp plan as well as to development orders that are issued by the County Commission.

I thank you for your time and just one more fact, one more thing – maybe some people have suggested you create a local Ethics Commission, and just to give you my off the cuff sense of that. I am not a big fan of local Ethics Commissions and here's the reason why.

First of all, your local Ethics Commission is going to establish separate bureaucracy – it's going to have a separate cost. You are going to have perhaps development of standards that are separate and different than what the State Commission does. I have seen that in some approaches, some rulings from the Dade County Ethics Commission.

The public official on the other hand is going to be potentially subject to multiple prosecutions. Prosecution by the local Ethics Commission as well as the State Commission. That's happened in some of the instances that come out of Dade County.

And so – then you have the issue of potentially, if you have completely different ethics ordinances – and that's why I'm saying that this is not necessarily an Ethics Ordinance or what I'm suggesting.

You have officials at different levels in different areas of government subject to different differing interpretations and limitations of the law, which makes it difficult for those folks on this side of the table who are trying to do business with a governmental entity – that they may need have to have one rule in Broward County, one rule in Dade county, one rule in Palm Beach County and then within Broward County itself – this ordinance, the Broward County Commission, you have one rule for the Broward County government and then 20 different rules, I don't remember how many municipalities you have --

Ms. Cepero: Thirty-one.

Mr. Herron: Thirty-one different rules for Broward County. But again, I thank you for your time and I am available to answer any questions.

The Chair: Thank you, Mr. Herron.

Commission Members, if you will hold your questions to one the first time around to make sure we have enough time for everyone to ask. I will open the floor. Anybody have any questions?

Wow. Well, I do. You recommended that – or you made a statement about any benefit versus a change in that language versus special private gain. Could you give us some examples of the two?

Mr. Herron: Yes. Again, what the statute says is that a public official – a local public official, is precluded on voting on any matter which inures to his special private gain, special private gain of a relative, business associate, or the principal by whom he is retained, which means his employer.

Special private gain has taken on a meaning of its own in the law to mean that one thing is that you have to look at the size of the class, and whether the public official's interest in the size of the class basically exceeds one or two percent – the line keeps moving at the Ethics Commission in Tallahassee.

And if it does exceed the one or two percent, then the public official is precluded from voting and has to file a memorandum of voting conflict. Okay?

Now, when people look at a particular matter, a particular measure and try to analyze how it effects – let's say you are going to change the zoning in a particular area of the County and the public official owns property there.

Sometimes it's easy to figure out what the size of the class is. Sometimes it's not. Local attorneys are called upon everyday to give advice to their public officials and say do I have a voting conflict and make that decision based on what the facts are.

Now, oftentimes the press comes back and second guesses the public official and the public official says, "Look, I talked to the attorney, there is no special private gain." Then you have a series of stories and it goes on and eventually a complaint gets filed.

But I think if you change the task for disclosure to any benefit on the public official, at least then that is put out in the public that there is a benefit to the public official on disclosing it, but it will leave it up the public official whether to vote or not vote in that case and not go across the special private gain threshold at their own risk.

Because often times, the public official – what happens, the public official just votes, the newspaper thinks they have a scoop, that all of a sudden there was this interest and they gin up the story that such and such, and then we fight over whether the public official's interest was special and private as opposed to just a benefit.

And that's what I would suggest. Disclosure threshold and if you wanted to go further, you could say a total refusal if you wanted to.

In Broward County that's probably okay but why these statutes are written the way they are, because at least at the state level, is because you have to deal with the rural counties as well as the urban counties.

And in the rural counties, often times, three or four members of the city commission or the county commission are employed by the same employer which is the paper mill and when they are voting on an issue related to the paper mill, four of them have to recuse themselves and so that's why they go to special.

Mr. Collado: Question. You mentioned that ethical concerns should be addressed through ordinances.

Mr. Herron: They can be, yes, sir.

Mr. Collado: Who would trigger the ordinances, if not a committee like this that would meet and see what is the law and across the state and suggest things? I mean, who would trigger the ordinance?

(Ms. Coward entered the meeting room at this time.)

Mr. Herron: In the ordinance that I am suggesting, this ordinance that's prohibiting contributions while matters are before the governor or while a person has a contract. It's more of a self-reporting thing. The applicant would have to certify just like they would with the bond work – if they had not made the contributions, or the person seeking the permit would have to certify as a condition of the permit that they had not made the contributions.

That's easy to check in the public record because contributions are a matter of public record. So I don't think you need enforcement necessarily. It basically becomes if they violated the rule, the County Commission itself could void the contract.

Mr. Fink: I think he's asking who drafts the ordinance.

Mr. Herron: Oh, I'm sorry.

Mr. Collado: Who drafts, who brings up the concerns?

Mr. Herron: Okay.

Mr. Fink: Would it be us, as the Ethics Commission or would it be –

Mr. Herron: I think in terms of your charge, it could be you. And as I read the Charter Amendment, there is some kind of relationship between you and the County Commission when you get to the end of the line here.

But I think between the staff – you could start the work and the attorneys could work on it.

Mr. Fink: In effect, it's us and I mean that's why we are here.

Mr. Collado: That's what I was getting at – there is a purpose for the Commission to highlight issues that could potentially be a concern of perception in the public

Mr. Herron: I think you have that charge under what the voters voted – you have a responsibility to report something up the line.

The Chair: Commissioner Shechter.

Commissioner Shechter: Mr. Herron, I don't think you said it quite this way, but you said something like perception is reality. How do you legislate perception? How do you legislate the perception to the public that it's a violation?

Mr. Herron: Well, I think the perception is that people who contribute to campaigns get attention by elected officials.

Commissioner Shechter: There is that perception.

Mr. Herron: And people who, as we all know, there are people out there in the world that have 35 or 40 corporations and they can sit there and crank out $4,500 checks to candidates for office and that's perfectly legal. But

the perception is that that person is getting favorable treatment from the County Commissioner.

How you eliminate that perception is that with respect to contracts and with respect to orders. This is my suggestion. That political contribution is taken out of the mix. If they want to write you 40 contributions, they can. They just can't come and get a bond business, or they can't get a vendor business.

Commissioner Shechter: Whatever business they are in.

Mr. Herron: Or an order that's going to say that we are going to change this zoning from this to this so we can put up a huge high rise and make a million dollars. Or a billion dollars; a million is nothing anymore.

Commissioner Shechter: I think in a situation like that, reality can conflict with perception because it might be a good thing to change the zoning, and the fact that you got a contribution shouldn't make that decision wrong.

Mr. Herron: I can see that but again, what the Grand Juries are screaming out is that there is a problem. And that debate over that principle needs to happen and engage more of the public than is in this room right now.

Commissioner Shechter: So, although this is to satisfy the public's perception that any contribution violates the Ethics Code.

The Chair: We have time for one more question. Mr. Fink.

Mr. Fink: I first want to thank Mr. Herron, because I think he put in one simple sentence exactly what the issue is; it's the perception by the public that government is pay to play.

I think the answer to your question is exactly what he stated. That an ordinance can be drafted which eliminates the perception. And if in fact, your statement is what if something is good such as changing a zoning ordinance, it shouldn't require contributions from – if it's right, it's right. And the elected official should be doing it because it's right, not because they've been contributing to their campaign.

The question I have for you though is that it's been suggested to me that one of the things besides pay for play is the reverse of pay for play and to better explain it, the threat to withhold contributions unless they vote a certain way is another methodology that has been used in the past.

Is that an accurate --

Mr. Herron: I am not familiar with – well, I am familiar – I mean, the example that I can give you is that a couple of years ago, the Florida Housing, whatever the Homebuilder's Association did a faux pas and said we aren't going to give any money to candidates unless they buy into our view of whatever this issue is, and that created a huge problem and the huge problem is – and it goes maybe a little bit beyond just straight ethics – it may even go over to the world of Honest Services and that is, hey, I am basically accepting this contribution by giving up my independence on this issue. And that's a whole other issue that lurks out there beyond the scope we are talking about.

Mr. Fink: So this negative impetus does exit.

Mr. Herron: But again, the public official is always going to say, and I recognize I guess some public officials up here. I've been around this stuff for a long time and the statement is always the same. This contribution isn't going to

affect what I'm doing. This lunch doesn't affect what I'm doing. But again, the perception is that it does and in Dixie County, it apparently did.

The Chair: Mr. Herron, thank you very much for your time. I appreciate you coming to be with us.

Mr. Herron: Thank you.

Dr. McCue? Good morning, sir. How are you?

Dr. McCue: Good morning. I am well. How are you guys?

The Chair: Good. We've allotted 30 minutes to hear from you. We appreciate your time being here.

Dr. McCue: My pleasure.

The Chair: And ask that you share and when you are finished I will provide the Commission members an opportunity to ask any questions they may have.

Dr. McCue: Fantastic. As I understood my charge; my charge was basically to come and talk about how Selection Committees for procurement contracts are organized to an extent and who sits on those committees, typically, across the United States.

Let me give a little background for those of you who might not know who I am.

I am a faculty member currently at Florida Atlantic University and I say currently because for those of who have been reading the papers, tenure is no longer a guarantee. So like any other state agency, our jobs are in jeopardy like most.

But consequently I am also a Ph.D. I have my Ph.D. from FIU. I have practiced in government for many years at the local level, and state level, and at the Federal level. I am currently the Director of the Public Procurement Research Center at FAU where research entity for the National Institute of Governmental Purchasing, which is the largest public sector body in the United States, probably across the world right now, representing public procurement professionals in their industry.

One of the issues that is always a contentious bone in procurement is, who sits on Selection Committees? Who chairs the Selections Committees? How are Selections made?

The profession has reached the point where pretty much the rubrics by which Selections are made are pretty well defined. In other words, the criteria by which judgment is made when a Selection Committee is put together; across the United States, there is a lot of consistencies. There are a lot more consistencies than inconsistencies.

The real issue in Selection Committees is who sits on the committees and who chairs the committees. We just got done with a procurement management review with the City of Orlando, for example. And we just finished up a couple months back. And they were unique to an extent, but not that unique.

Where the project manager in the Public Works Department would not only Chair the Selection of the vendor, but also implement the contract, and evaluate the contract. So obviously you could tell, one of our recommendations was you have to have separation of duties and responsibilities.

In doing some research for this particular topic on elected officials sitting on Selection Committees as I was charged, there is not a lot of empirical research out there right now. Because there is not a large enough end to do this research. It's more a case based.

So, what I did was I sent out an e-mail to a list server that pretty much reaches approximately 15,000 purchasing people in the United States and asked them, "Do you know of any elected officials who sit on Selection Committees?" And I can publically state that I've got zero replies that allow elected officials to sit on Selection Committees.

But that's antidotal evidence to a large extent. There's no statistical significance to that. More importantly, is that I asked the second follow-up question which is, why don't elected officials sit on your selection committee? And there the range of answers were from they don't know the process, to potential conflicts of interest, to influence peddling, and those types of answers. And again, none of this is statistical, just antidotal. But it was just something to get a feel for what is going on.

Now, there is a whole bunch of research out in the private sector, by the way, on the influence of Board of Directors and selection of vendors. Okay?

The Journal of Supply Chain Management, which used to be the National Contract Management Association Journal; there was a study done in 2008 that looked at the influence of Board members on selection and the conflicts of interest that arose out those issues.

Generally, the findings were that even large corporations who have Codes of Ethics, who have signatures on ethics policies and all that other stuff, that there were two fundamental issues with having elected officials on Selections Committees.

One is what you guys were talking about previously which is this perception issue. Which is always a difficult thing to grab onto, and the second thing was more subtle. It was the influence upon the Selection Committee.

So consequently, what the researchers concluded was that in part, the Board of Directors should not sit on Selection Committees unless there is a good reason for them to; in other words they have a level of expertise that no one else in the organization has.

Otherwise, if they are just like any other Selection Committee member who has a general knowledge of the process; they might have specific technical knowledge on the subject – most of them would not be sitting – the researchers would recommend that they not sit on the Board.

Now, I don't know – since we are right next door – down the road – across the street basically – I am not sure of the legalities associated with elected officials sitting on Boards in Broward County, nor do I pretend to know.

I think the issue is, and continues to be, whether it's a direct conflict of interest or an implied conflict of interest; perceptual conflict of interest and the fact you do have potential for conflicts and influence decisions.

And if a decision is influenced, that becomes more problematic because that becomes harder to detect. Because there is a whole bunch of studies out there on organizational development change – I always use the

antidote, and it's a poor antidote but I apologize for it, but I'm a faculty member so we're allowed to do weird things; it's like inviting your mother to your bachelor's party. Of course, your behavior is going to change.

So consequently if that's the case and behavior changes as a result, then the result of that behavioral change will also change. So I think the subtleness of the actions, the interactions, might be harder to detect and not that there is anything is wrong. I am not implying that anything is wrong but just those influences might be there that could sway decisions either which way. That potentially – that could potentially sway decisions each way.

And then one other point and then I'll open it up for questions because it's a very sensitive issue and a lot of states and a lot of local governments across the United States as well, is who chairs the committee? Who chairs the Selection Committee?

We, and the NIGP, we at the Research Center of the NIGP, the European Union, the World Bank, the United Nations; all of us have consistently argued that the person who chairs the Selection Committee should be the purchasing person; that profession.

And there's a whole bunch of reasons for that. One of them being that they're independent to a large extent because they are not associated with the project. And if they are associated with the project, then someone else would chair that thing.

So you got to have this kind of – in the old layman's terms, this separate of duties, right? So the purchasing person is only chairing the

committee. They might not be the substantive expert but they are the process expert, theoretically.

Then you got this kind of checks and balances which is always a good thing in a Selection Committee. If one member is overly influenced and overly arguing a case, that doesn't deny that person the opportunity to argue a case in front of the Selection Committee in their Selection meetings, the purchaser, with their professional ethics, should be able to stand up to that person, whoever that person is, and say, "time is up, we've heard your case, we have your evaluations" and move on to the next.

With project managers sitting on chairing, or other individuals who might not be process experts, it becomes a lot more flexible on how decisions are made within the Selection Committees.

So with those three criteria; I think you are looking at the conflict of interest, the potential conflict of interest, and the influencing of decisions. And then you look at the flip side of the coin, because we tend to look at the negative side. Let's look at the positive side.

What advantages would there be to have elected officials sitting on a committee. Not disadvantages, we can itemize those. What advantages? Unless – I'll preface this in the beginning, unless they're substantive experts in a particular area, there really is no advantage I can find to have them chair, or sit on a Selection Committee.

You could argue that there are political issues, but politics is not a thing that should enter into a Selection Committee. Selection Committee should be unbiased as much as possible.

All those decisions that are made about purchasing, about buying buildings, or buying roads, or buying goods and services are done through the budget process so the political animal has already been laid when the budget goes through right now.

So to say they might be able to direct a committee on the behaviors and influences of the Commission, that's already been laid – the groundwork has already been laid in the budget process, or the departmental manager is coming forward and talking with the Selection Committee.

So when you look at what the possible conflicts might be and the potential of influence and you look at the pro's of having an elected official sitting on the committee, the perception is much more powerful than the reality.

More importantly, what they could bring to the table might not be as worthy of that perceptional issue. And I think that's what the general conclusion of this research conducted by the General Supply Chain Management concluded; just get them off. There is no purpose in it. If there is a purpose, then document the purpose and it will be documented in the files and anyone who wants to raise a question about it can do so.

And that's basically the conclusion I would bring to this Commission. Try to keep it short and sweet.

The Chair: Thank you, Dr. McCue. There were a couple of people I left in the queue. Mr. Wolfe, you, and Mr. Bakalar – I'll start with you if you have questions. Either one of you.

Mr. Wolfe: How many – in Miami Dade we were told last month that elected officials are not part of the procurement process in Miami-Dade.

What's it like throughout Florida in terms of what we do in Broward, where the Commissioners are involved?

Dr. McCue: Of those responses I got back, which was over 15,000 purchasing people in the United States, so I did not look specifically in Florida, I just sent out a blast e-mail, to be truthful, to all of them. There was not one case where an elected official – of those who replied – there wasn't one case where an elected official sat on the Selection Committee.

Mr. Wolfe: And then a follow-up to that, and I don't know if that's in our charge or not, but I would assume if you moved elected officials from procurement process you then have the second question of ethical concerns; the staff members are then assigned to those duties.

Dr. McCue: And that's a very difficult issue and one of the issues that across the world we are grappling with.

You can understand – it makes sense. When you are dealing with a developing country, you are worried about the procurement systems, right? And how to articulate those procurement systems and public policy. And there are a set of – I can't say this that it's true, but there are kind of generally accepted practices on how we do those things. Like at the U.N. or at the World Bank, and even in the United States specifically.

And those rules of practice kind of dictate how Selection Committees participate. Who's chosen on the Selection Committees, what is being done through these Selection Committees, how evaluations are being done on the Selection Committees, what the results of these Selection Committees are, who can vote on them, who cannot vote on them; so those

kinds of – they are not standards because there is no standardizing body like we have in accounting or finance. So they're kind of rules of thumb on how we proceed in the selection process.

I have not looked at Broward County's selection process, to be truthful. I've stayed away from it for a quite a long time not because of any wrong doings; just because I think there is a lot of work that might be done in the purchasing and supply chain management process within Broward County.

I guess that's a long way to a short answer.

The Chair: Mr. Bakalar.

Mr. Bakalar: Yeah, I tack on to Mr. Wolfe's question really. As far as ethical concerns – by not allowing Commissioners, doesn't mean it will stop ethical concerns. In many instances – staff are much more insulated and have just as an easy time of lapses in ethics. So it certainly doesn't solve any type of problem.

And also, as you talked about, yes, they would have the 100 pound gorilla in the room as the Commissioner enters, doesn't mean that your supervisor five steps up the food chain isn't sitting on the selection negotiation committee with you. So the solutions aren't necessarily solutions.

Dr. McCue: Yeah. I wrote a paper – it was probably five years back, talking specifically to that issue and the title of the paper was the Fraud Red Tape Dilemma. At what point do you write a system that is so policy driven that there is no room for flexibility as opposed to building in flexibility that also builds in the opportunity in for – and I use the term fraud. But mismanagement even. Just simple things like mismanagement things.

There is no rubric that one can determine out there that can do that. There really isn't.

Mr. Bakalar: I wanted to put that out there. It's not a cure all.

Dr. McCue: No, no, no, no, no. Selection processes are always going to be political to an extent, even internally political.

The Chair: Mr. Fink.

Mr. Fink: If you were to design – since you are an expert on this, if you were to design a Selection Committee – my question is, who would sit on it, just generically, and how many members would it consist of? I think you said the Chair would obviously be the head of the Purchasing Department.

Dr. McCue: It would depend on a large extent the nature of the purchase.

Mr. Fink: But in any instance, the Chair would be the head of the Purchasing Department.

Dr. McCue: Yeah, in any instance – for a threshold instance and let me back up one second – when you have a Selection, say in Broward County, the threshold is $100,000 that it would have to go through some formal process.

Mr. Fink: In Broward County it's a dollar.

Dr. McCue: Yeah, then in the size of Broward County, you could not just only have the Director of the Purchasing Department sitting because they would not be able to sit on all the committees.

So you would have to have designees within the Purchasing Department who would be trained appropriately on how to chair committees

because there is an art to chairing a committee as we all know. I mean, we have all sat on enough committees. There is truly an art to it.

And to an extent you can go from a range of three members on the committee to up to or upwards of 15 depending on the purchase, given the level of sophistication necessary and technical expertise. Road construction projects with the Department of Transportation; they have seven members on their Selection Committee. I've seen where you're purchasing automobiles; you might end up with five. I've seen like with – and I can use the University as an example, where we are buying desks and we had a Selection Committee of three.

Mr. Fink: What would be the ideal number, so that you didn't have to manage the committee? When you get 15, you have to start to manage the committee. So what would be the ideal – in order to move the process along with a little more speed. What would be the ideal number for a committee to operate and make a decision?

Dr. McCue: The rule of thumb has always been five.

Mr. Fink: And my second question is if a member of the Purchasing Department is the Chair, what other generic members of that committee – should it be somebody from the department that is involved in the purchase?

Dr. McCue: Yes, yes. There's always got to be some representative – not only a technical representative, but the technical representative might be from another department.

For example, in the acquisition of vehicles, you might have an expert in fleets sit in on the Selection Committee, but that doesn't necessarily mean that it's the only expert in the County. You might have an expert from Parks and Recreation that is an expert on vehicles.

What we suggest in the Selection Committee is that you always have a representative from the department because they are the ones who are most intimately familiar with it --

Mr. Fink: What they want.

Dr. McCue: Yes, what their need base is.

Mr. Fink: What their need is.

Dr. McCue: What their need is. And then you say an expert, an internal staff expert?

Mr. Fink: Yeah, because there are various modalities of Selection Committees. To me, on large purchases, we've always – I can't say we all, let me rephrase that. I apologize. I've always proposed that larger purchases should be hired out so it basically takes away all that kind of internal political gain. But that's a different issue. Let me go on specifically with the Selection Committee.

Yes. So you would have an internal expert and that internal expert could also be the departmental person. You would have the purchasing person, who is kind of the arbiter of the process and then you would have some other sustentative person who would be knowledgeable of the area but wouldn't have to be a technician in the area. Then you might have an --

Mr. Fink: An external expert?

Dr. McCue: I would always suggest that you always have that external expert. I would suggest that at minimum.

Mr. Fink: Somebody with no direct benefit in any matter, shape, or form.

Dr. McCue: I agree.

Mr. Fink: Maybe from another county or maybe from another city that is an expert.

Dr. McCue: Yep. Yep.

The Chair: Any other question for Dr. McCue? Robin.

Ms. Rorapaugh: Dr. McCue, when I've spoken to County Commissioners and also who represent possible vendors, what they consistently told me over the years is having County Commissioners on your Selection Committee guarantees that it's open to the public and a County Commissioner can be more accountable to the public at election time.

There is also always the concern and we hear it constantly in Broward County, oh, it could be like Miami-Dade and etc., etc. How do you answer those concerns because we really do have a very unique system here?

Dr. McCue: Yes. Yeah. It's really not an easy answer because I don't think there is an answer to it. Because what you guys were talking about before that; how do you put your hands around that perception? You are bound by that perception. So given that, I'm not sure having Commissioners sit on a Selection Committee ensures public access because one of the things about Selections Committees is that there is no public access. They are closed meetings, right?

Ms. Rorapaugh: But they aren't when – here in Broward County, they are open to the public.

Dr. McCue: Yeah, they're open. So outside of Broward County they are typically closed meetings where the decisions are made internally and then the public persona of that selection – and this again goes back to the fundamentals of checks and balances and separation – is then that selection is then put to public eye and the public, i.e., the elected officials.

In Broward County we are kind of unique in that sense. We have those open Selection Committee meetings. You know, I wish I could say there was a true answer to it. I really can't. I really can't because I don't have any empirical evidence to suggest otherwise. But let me preface it this way. If it is a public meeting and you have a Commissioner sitting on it, what about the other Commissioners?

So again, you have to look at the pro's and con's of the access issue. And the access issue is, as a Commissioner is sitting on there, there is accountability, right? For that one commissioner – what about the other Commissioners? So there's lack of accountability for them?

So I would raise that question as a potential to say, you know, I think the true checks and balances is let the Selection Committee determine internal and then external – let the politicians do what they do best and set policy and make decisions and then by doing that separation of duties, it becomes arguably – and I say arguably because there is an argument to it – it becomes much more sustainable over time in the sense that you might avoid a whole bunch of potential issues, although no issue will be totally resolved.

The Chair: I will let Mr. Collado ask the last question and I will close with a question and a comment. Sir?

Mr. Collado: Sometimes purchases affect a society in different ways, from environmental concerns to genuine committee concern, which means that there has to be certain levels of expertise from those areas affected. Who determines the expertise that that Selection Committee should be made up of?

Dr. McCue: Excuse me. I'm just beginning one of those summertime colds in Florida which is not one of the funnest things in the world.

That's a great question. If you look at an organizational structure and I'm just going to generalize it real quick. And Purchasing reports to the Finance Department which would report to an Assistant County Administrator, which reports to the County Administrator, which reports to the Board. Within that chain of command, there are different influences within an organization. Nobody would deny that, right? There is plenty of evidence to show that.

What we always suggest is that the procurement function within the government should not report directly to a department. What they should be is like an auditing firm to an extent where you would not have the auditor general's office reporting to the budget office because the budget office could then determine --

So what we suggest is that the purchasing function be moved from under it into the Administrator's Office as a decision tool. As a decision tool itself because Purchasing truly is a strategic tool within the organization.

Now, who then would – then you would have independence because I think independence is critical in any Selection Committee.

Independent, the purchasing folks would then chair and then select the members, all right, through a pool process.

And what we have suggested to local governments like in Orlando, where they serve their organization, their members in their organization, and finds out who wants to participate in Selection Committees. Because of those who have served on them, you don't get all the members there all the time. Who is willing to serve with them and also get some broad enough brush, that you know – I could sit on a Selection Committee for something that is not overly technical, but I could still do a fair evaluation of a proposal or a bid or whatever it might be.

So I think if you couch it in one area under one department, that department becomes an expert within the County to determine who is best to sit on specific committees.

The question that may arise out of that, well, doesn't that person overly influence the selection process? Yeah. Yeah. To an extent. You bet. You bet.

The Chair: Dr. McCue, you had mentioned that you sent out a blast e-mail to 15,000, and of the replies no one had any Commissioners sitting on the Selection Committees. What were the number of replies you received?

Dr. McCue: Okay. You have to understand that e-mails are a pain in the butt when you get blast e-mails. Okay? So I did not count them. So I apologize for not having an end for you. Because there were just lots of them. So I didn't go number 1, number 2, number 3 --

The Chair: Dozens, hundreds of the 15,000?

Dr. McCue: I can make a fair estimate – over – probably over 2,000. And again, like I said, I didn't have a graduate student this summer that could sit there and count them. And God bless you, nor was I.

The Chair: Dr. McCue, I thank you for your time. I appreciate you coming before us and sharing your expertise.

Dr. McCue: And thank you. Good luck by the way.

The Chair: Dr. McCue, could we get you to fill out – Monica will give you a form.

Board members, I want to just take a moment. We have about a minute here to address our scope and our charge.

On several occasions, questions have come up as to whether this should – what we are charged with should apply to County staff as well. And I've asked legal to look into that matter in terms of how the Charter question is written and I believe it's specific to the County Commission.

They could elect and we could recommend, or suggest that they apply this Code to County staff – beyond them. But that would be their decision, I believe. And I would like Rob to address this.

Mr. Teitler: That's correct. It's my position and that of the County Attorney that the charge, based on the Charter and the vote of the electors, relates specifically and exclusively to the County Commission.

And certainly the County Commission can then ask the County Attorney's Office to work on an additional Code pertaining to County officials, and County employees. But the task of this Commission is to draft a code of conduct; a Code of Ethics pertaining strictly to the County Commissioners.

Mr. Fink: But is Neal's question or statement correct that we could recommend that it be extended to staff?

Attorney Teitler: I believe that probably through the Chair, a recommendation could be made to the Board of Commissioners, not through the actual Code of Ethics you prepare, but certainly the Chair has the right to suggest or recommend to the Board that an additional code of conduct be drafted pertaining to County officials and County employees.

Mr. Fink: Well, would it necessarily have to be additional or would it just be an extension that the Chair makes a recommendation that the Commission as a whole suggested that whatever we prepare for the Commissioners should be extended rather – it doesn't need a separate one but it should be extended; the same Code of Ethics could apply to both.

The Chair: I think it's separate because it's not part of the charter question, it's not part of the charge. Our charge is specific to the County Commission. Anything in addition to that is outside of our charge as written by the Charter and voted on by the residents.

Mr. Fink: Right. But if I understand him correctly, he's saying that the Chair could recommend that the Board has suggested that that Code of Ethics that we are recommending for the Commissioners – if the Commissioners so desire – we are recommending that it should be extended to staff.

The Chair: I tell you what I am going to do because we have a speaker waiting. We will bring this up under other business. You had a question real quick, Mr. Wolfe?

Mr. Wolfe: Go ahead.

The Chair. Okay, we will bring it up under other business.

I wanted to make sure that we put it in context because that question keeps coming up when we talk to folks. And I wanted to make sure that we're all operating from the same frame. That's why I wanted to clarify it now.

With that being said, Mr. Pujals? Good morning. And thank you for being here.

Mr. Pujals: Thank you.

The Chair: You will be sharing time with another speaker, or is he here for questions as well?

Mr. Pujals: Questions and answers.

The Chair: And your name, sir?

Mr. Moore: Peter Moore. I'm the Vice Board of Directors.

The Chair: Thank you very much, sir. I appreciate your time being here as well. I will need you all to fill out one of these forms as well before you leave. Same instruction that I've given the other speakers. We will allow you to have the floor to share some of your thoughts as it pertains to what we've been charged with and we will open the floor for the Commission to ask questions.

Mr. Pujals: Good morning, Mr. Chair and members of the Ethics Committee.

My name is Victor Pujals and I am a professional engineer and I am here presenting on behalf of FICE and our Executive Director who could not attend. Peter Moore is also here and he's also P.E. and was just elected to be on the FICE Board.

In prior meetings, sitting with me was Bob Bear, who is Vice President of FICE but was on vacation and could not attend so we're presenting on his behalf.

We've prepared a brief statement that I gave to Ms. Cepero. I don't know if you've handed it out but I would like, Mr. Chair, to present that statement on behalf of FICE.

The Chair: Did you want to read that into the record?

Mr. Pujals: Yes, please.

The Chair: Certainly.

Mr. Pujals: First of all, thank you on behalf of the Florida Institute of Consulting Engineers (FICE) for this invitation to appear before the Ethics Commission. We appreciate the time and effort that each of you are dedicating to this endeavor.

FICE is one of six practice sections within the Florida Engineering Society (FES). FES has 4,300 members and FICE represents over 400 consulting engineer firms here in Florida.

Having sat in the audience for several previous meetings, we know that one of the issues that practically all prior speakers have touched upon is that of procurement and the importance of transparency in the process.

FICE's particular interest is that of procurement of professional services associated with our profession which we typically call A & E Procurement because they mostly involve architectural and engineering professional services.

During a meeting last month of numerous representatives of FICE member firms here in Broward County, we discussed the issue of a procurement and today's presentation before the Ethics Commission.

The following issues were of a main interest regarding the selection process for A & E Procurement:

1) Training and education
2) Selection Committee composition
3) Accountability and transparency
4) Procurement working committee participation

With respect to training and education, it is important to understand that the A & E Procurement process in Florida for municipal entities is governed by law under CCNA, the Consultants Competitive Negotiation Act, Florida Statue 285.055.

Under CCNA, professional services are procured in a quality based selection and no fewer than three firms de**e**med to be the most qualified to provide the particular service are ranked in order of preference, based on the following criteria:

1) Ability of professional personnel
2) Minority business certification
3) Past performance
4) Willingness to meet schedule and budget
5) Location
6) Recent and projected work load
7) Volume of prior work awarded

8) Equitable distribution of contracts

The question then becomes what should be the composition of the Selection Committee to best select a consultant based upon the above CCNA code criteria?

In Broward County, the Selection Committee composition varies depending on the size of projects. For projects with estimated fees of not more – or shall we say less than $100,000, or a project whose value is less than $500,000, the Selection Committee is composed of no less than three staff appointments.

For larger projects in excess of those values, the Selection Committee is comprised of the County staff appointments and as many elected officials who has expressed an interest in participating or has been appointed to the Selection Committee. Thus a Selection Committee could include all nine elected officials plus the three staff members.

In our Executive Director's letter of May 14th, it was suggested that the Ethics Commission consider recommending revisions to the Procurement Code, in particular with professional services so that the Selection Committee be the same regardless of project size and be composed of qualified County staff appointments.

The Selection Committee would then shortlist and then rank the firms in a typical qualifications based CCNA process as defined by Florida statutes.

We fully understand and support that the entire elected Board has the ultimate decision in ratifying the Selection Committee recommendations,

revising the ranking on a good cause, or even requesting presentation by the shortlisted firms in front of the full Board in making the ultimate decision.

As a point of reference and for your consideration, we have compiled the summary of A & E Selection Committee Composition and Process in a number of large counties or adjacent counties, as well as the Water Management District and FDOT that undertake a lot of Selection Committees.

It appears to us that in most cases the committees are composed of a fixed number of members and some include one or two elected officials. For example, in Orange County, one elected official has the option to sit on the Selection Committee. The elected official rotates on a monthly basis. In contrast, in Broward County, the elected officials could be the minority, majority, or super majority of any given Selection Committee.

With respect to accountability and transparency, we encourage good government principles and qualifications based selections in accordance with CCNA process and selection criteria and more in line with the standards of the industry depicted in the tape.

And lastly, should the Ethics Commission recommend the revision of the procurement process for professional services, please note that FICE would be willing to participate in any working committee established to address the procurement process.

Thank you for letting us present and your kind consideration on behalf of FICE, our Executive Director, and member firms.

The Chair: Thank you, Mr. Pujals. Mr. Moore, do you have anything to add, or can I open the floor to questions?

Mr. Moore: Not at this time.

The Chair: Commissioners, questions?

Ms. Rorapaugh: Do you know the history of how we came to this particular way of choosing things in Broward County?

Mr. Pujals: Not particularly, but I know it's been in place for a quite a while because I looked at how old was the last revision and it seemed that it had not been revised for quite a while.

Ms. Rorapaugh: Quite a while being four years, eight years, twenty years?

Mr. Pujals: I'm guessing maybe more than 10 or 15 years.

Ms. Rorapaugh: Okay. So many of the current County Commissioners would have been part of that process?

Mr. Pujals: I'm not sure how it took about. Was there input from the public at that time or what was the procurement process, how it was developed. So --

The Chair: Mr. Fink.

Mr. Fink: Just to make sure that I am clear. Your recommendation as FICE is that elected officials not be part of the Selection Committee Procurement Process?

Mr. Pujals: I think it's a combination so I don't want to isolate it like that. We do feel there is a role for the elected officials. We understand that they have the ultimate decision so they could very well request presentation by all the firms.

What we see is more of a standard committee that is more balanced, let's say. You have "X" number of people on that committee, selected in whichever way it's in the code. And if there are going to be a number of persons from the elected body, that's fine. But right now, there seems to be, you know, a little too much – you don't know, you know, what the selection encompasses --

Mr. Fink: I understand the confusion that it could be nine plus three, or it could be three only. I understand that. But is it your recommendation through FICE, that as part of the procurement or the Selection Committee, that will then present its findings to the Board as a whole or the issue as a whole, that the elected official not be part and parcel of the Selection Committee process?

Mr. Pujals: The suggestion in the letter that was submitted by the Executive Director was that the Selection Committee be composed of qualified staff ranking based on CCNA criteria and then it be presented to the full Board with the whole Board – and I know that was discussion at one of the prior meetings – do the Board members sit as a Selection Committee vote again when they are the dais? So I think we are looking for a little more clarity on that aspect.

Mr. Moore: And if I actually may add to that, Mr. Chairman. The number one recommendation that FICE had particularly related to its local member firms was for training and education of the Selection Committee members, particularly related to – for example subject is not in the elected official's technical capacity, then the criteria matrix needs to be explained; the process and the procedures need to be explained.

So our number one – whether it be related to – again, I understand that staff is not a portion of this – but whether it be related to the Commissioner or related to staff, education and training is our number one issue. Then second would be the composition.

Mr. Fink: That being said, I am still trying to get to – is it FICE's recommendation that elected officials be part and parcel of the Selection Committee – not of the final process or doing the voting? The Commissioner is there.

But if I read this letter correctly and I understand what you are saying, I am just trying to clarify in my own mind that it's your recommendation, yes, they should be educated. But that education involves staff or qualified staff, not the elected official.

The elected officials will get to act on this when it comes before them for a vote and when it is presented by the Selection Committee with the rankings that the Selection Committee comes up with.

Mr. Pujals: Right. We like it where the entire elected body is part of that and any open discussion for transparency purposes is in front of the whole body; elected officials.

Mr. Fink: But that happens now.

Mr. Pujals: I am not sure if it happens now or gets presented in final contract for approval. Right? It's a final contract for approval is your understanding. So right now, what is presented to the whole Board is the final selected firm.

It's my understanding. Maybe you want some clarification for that.

Mr. Fink: I am going to look to staff. Am I not correct that when a Selection Committee is comprised and they start their work, their job is to rank the respondents and then make a presentation to the Commission for the Commission to vote on that recommendation? Isn't that the way it works?

Ms. Cepero: That's correct. Basically how it is handled now is the Selection Committee evaluates and makes the recommendation. That recommendation is taken to the full County Commission Board. They have the opportunity at that point to open it up and have the discussions and either accept or reject the recommendations of the Selection Committee.

Mr. Fink: And either re-rank or and anything else. But they are making the final decision.

Ms. Cepero: They are the ultimate decision makers. That's correct.

The Chair: Mr. Wolfe.

Mr. Wolfe: I don't mean to put you on the spot but is your organization or yourself individually feel that when working the procurement process, political contributions or hiring the right lobbyists is part of the process here in Broward?

Mr. Pujals: Well, the political process is everywhere and the same, and I think as individuals we normally support the political process as far as you know, keeping our democratic system and that aspect. But we're just making suggestions and giving you data on other counties on how the process is carried out in other counties in Florida, the larger counties, your nearby counties for comparison.

Ms. Rorapaugh: Artfully dodged.

Mr. Wolfe: Yeah, I mean, have you personally, your association, made contributions to current County Commissioners?

Mr. Pujals: FICE, I don't believe FICE --

Mr. Wolfe: Have you?

Mr. Pujals: Pardon me?

Mr. Wolfe: Have you?

Mr. Pujals: To current elected officials, no, I have not.

The Chair: Ms. Coward.

Mr. Pujals: Just a clarification, in Broward County, right?

Mr. Wolfe: Yes.

Mr. Pujals: Yes. Yes, sir.

Ms. Coward: Sir, in most of the counties that I see here on this chart – first of all the technical need for terms – when you say technical, does that always mean staff?

Mr. Pujals: Yes. Excuse me. Now some people I may add it was discussed earlier with Dr. McCue. They actually bring technical people from the outside in some committees so it was suggested by somebody, could you get somebody from the city to city and whoever is recommended.

Ms. Coward: So when you say technical staff, it could be internal or external on this chart.

Mr. Pujals: Yes.

Mr. Coward: And also on this chart, you say management. Who are you referring to?

Mr. Pujals: It's sometimes from the County Administrator's Office or it may be from procurement. It varies. Every county – their procurement code has different suggestions for that.

From an engineering and architectural and ranking criteria, you go into these presentations and the subtleness between these firms is so small a difference of these highly qualified firms, our opinion is that if you have qualified staff, they may have an easier time, you know, seeing through that or trying to ask the right questions and I think that goes in line with what is said.

If you have an elected official that has special expertise that can bring it to bare in obtaining a better selection, we would be in favor of that also.

Ms. Coward: One of the terms you use on this chart is Administration. Who does that include?

Mr. Pujals: Usually like a director level or department head. And for example, if I may. I believe in Miami-Dade County, they have one person from the Small Business Administration. I would consider that not necessarily technical, but more Administration or management style.

Ms. Coward: Chair, may I ask one substantive question. In the counties and it appears to be most of them where they do not have elected officials serving on their committee. Have you found there to still be the problem of the politics, or the lobbying, the staff, and the other – the technical persons; does it appear to you that it eliminates the concern we have here in Broward?

Mr. Pujals: No, I think that everywhere; there are issues everywhere that you have to deal with, especially as the projects get larger and the issues get more complicated. But as far as the ranking, I think we all feel

better if it's a structure committee; a fixed committee and the more qualified people. Certainly the elected officials have the ultimate say.

Ms. Coward: Thank you.

The Chair: Thank you, Ms. Coward. Commissioner Shechter.

Commissioner Shechter: Just to follow up on Mr. Fink's question. What's your thought on having a member of the Commission, both on the selection process and the determination process sitting as a member of both committees?

Mr. Pujals: I think that's up to the local entity on how they want to do it. I don't --

Mr. Fink: He asked you what your opinion is.

Mr. Pujals: My personal opinion? I am trying to represent FICE here and not – you know I like to see a balanced committee with a fixed number. That's just my structure, you know. And if there's an elected official there, that's okay with me. And I like it also when it goes before the full Board for discussion.

Commissioner Shechter: Just one quick follow up question. The subject of this committee is ethics, not procurement, and your thrust seems to be on restructuring or structuring the procurement process. How does that tie in to the ethics question that this Committee is charged with?

Mr. Pujals: Vice Chair, I have struggled with that myself. But having sat here in the audience and seeing so many people bring up the procurement issue – so you'll see that anything we presented is – if you recommend that, you know, procurement be looked at – if you recommend or suggest that. Because it is a struggle, because we don't want to insinuate that

this is necessarily an ethics issue; the fact that Broward County does things they way they do. But it's been brought up by other people that deal with ethics on the issue of procurement. I would even say the elected officials brought up the issue of procurement.

So if you are going to address it, we'd like to see you recommend, you know, that that be looked at, although I don't see it necessarily being in the Ethics Code unless you all decide that way.

But it is a struggle, you know, that we are concerned on a procurement issue because it's been brought up before and at the same time, we don't know that this really belongs in an Ethics Code. So --

The Chair: Any other questions? I think again for clarification, my understanding is that if we address procurement in our Code of Ethics, nothing we address is going to be outside the Code that we craft.

Our suggestion, our recommendation will be crafted within that Code and it will be specific to the County Commission's participation or lack thereof, on a selection team or in the procurement process.

It won't be to recommend how that team is comprised, who should be on it, who should chair it. Just specific to the County Commission's involvement in that process. Our Code, by Charter question, and again, I'll lean to counsel, will specifically address County Commission's involvement in this process.

So we may say none should be involved in that process. That will be the recommendation in our Code; the County Commission is prohibited from

participating, or no more than "X" amount of County Commissioners are permitted to participate in, but beyond that, it would be outside of our scope.

And I'll ask Felicia to comment. You have a question. Then I'll ask legal to --

Commissioner Brunson: Just going back to something Ms. Coward brought up. It seems to me, and I believe that you said this, that either way it goes there's going to be issues. You said that, and please clarify this – that on some of the County agencies, where no Commissioner was there, there were still issues.

Mr. Pujals: Well, what we want to do is enforce the CCNA selection process and in that selection process there is strict criteria. And the more education there is on the selection based on that CCNA criteria and not other factors, the better I think the selection process. So that's what we spelled out; the eight criteria that is in the statute as far as selecting consultants.

The Chair: Before I ask Mr.Teitler to comment, Mr. Pujals, could you tell me how or what method was used to derive this data that you provided in the matrix?

Mr. Pujals: Mostly data that was available at FICE or through actual procurement regulations in the different entities.

The Chair: So someone from FICE contacted these agencies to do the research?

Mr. Pujals: Most of it is actually on websites, so maybe not direct contract of the agencies. But reviewing and then supplementing it with just

information from people that have gone through that process that are members of FICE.

The Chair: So that the document was put together by someone in FICE. Not pulled from another source.

Mr. Pujals: Right. Not from another source. Correct. Not secondary source.

The Chair: Mr. Teitler.

Attorney Teitler: To follow up on the Chair's statement. Our task is narrow and it's to prepare a Code Ethics; code of conduct to relate to the behavior to the County Commissioners and in this particular issue, it's up to the Commissioners of this Commission to determine whether there is an appearance or perception of impropriety to have a member of the Board of County Commissioners to be on a Selection Committee.

And it's not for this Commission to rewrite the procurement code as it relates to a Code of Ethics for the County Commission, that would be the issue – the narrow issue for this Commission to deal with.

The Chair: Any other questions for these gentlemen? Thank you very much for your time. Thank you.

Again, would you please complete one of the speaker cards for us before you leave?

Members, we have a couple many of minutes before we are time certain for public comment. I don't know if anyone is here waiting to speak. Sir, are you waiting to speak?

Mr. Herron would you like to speak again? I would ask that we go right into other business, unless anybody feels a need to recess for a few minutes?

Let's recess until 11:00; if there's still no public speakers, we will go right into other business.

(The Chair recessed the meeting at 10:53 a.m. and reconvened the meeting at 11:00 a.m.)

The Chair: Okay, it is 11:00, and we are re-adjourning the meeting and do I have any public comments before I go on? No public comments. I'm sorry. Come on up. Sir, could you state your name?

Mr. Rand: Sure. Russell Rand.

The Chair: Welcome, Mr. Rand. You have three minutes.

Mr. Rand: Three minutes? Maybe take a little longer?

The Chair: Three or less.

Mr. Rand: Less? Okay. I have no idea what you have already listened to or what the discussion is at all. I had to wake myself up to get here.

I spoke here in May, as you know. I worked for Broward County 29 years in the Environmental and I was here in May. The minutes say that Russell Rand, member of the public, addressed the Ethics Commission and explained his employment history with Broward County. Mr. Rand stated that the Ethics Commission could not fix ethics quick enough."

I'm dressed for a funeral. My buddy (inaudible) died. Because I painted the street for the groundbreaking for the Performing Arts Center.

I have some ethics issues with the County as I tried to go over that are summed up on the micro thing there.

I did file with the state an ethics complaint because the County didn't follow the state law and that's my issue.

My job was taken away and all I wanted is an arbitration or an impartial panel that's called for under state law. That's state law. I don't make it.

I received replies from the Ethics Commission, the Governor's Office, the Inspector General's Office and the Florida Commission on Human Relations; essentially we don't know nothing, bump it back. You should file a complaint with the County, which I have done for 20 years or so.

What I'm trying to get to is that the rubber just doesn't meet the road here. I was in Key West for the Today Show and saw my former department director who instigated or initiated the ball rolling to take my job away for coming back from lunch and complaining about the drug manufacturing, etc., in the county lab. They're having a good 'ole time in retirement and pension – bookoo bucks – they don't have to work anymore. He's a year and a half younger than I am.

The Mayor was in the Cote de Jure. While she was there – I'm reading the Storm of the Century, the 1935 hurricane that came through the Keys and killed 408 people and it's classic bureaucratic stupidity. They didn't know the train couldn't get it there – and nobody knows nothing – left hand doesn't – everybody is lying – two reports were supposed to be on President Roosevelt's desk. They never made it to the desk. Never made it to the archives. Fifty years later – it almost took a court action to get some of the files, so –

I am extremely knowledgeable in hurricanes having survived the one in Connecticut, August 23, 1955, Hurricane Diane, that dumped 20 inches of rain and killed about 200 people and flooded the City of Waterberg, where I was born.

So I just want you to realize from your notes there that I said something like the ethics can't fix it quick enough.

Right now today, in Taiwan, they got 80 inches of rain (showed tape measure). That's 80 inches of rain.

The Chair: Mr. Rand, you have about 30 seconds.

Mr. Rand: We have trouble with six inches. That's 80 inches, from one storm. That exceeds the record of Wilma, that dumped five feet on the Yucatan.

So, I'm trying to get to the point that people aren't understanding basic chemistry, and physics, and calculus that I studied and got A's and B's and all. And if you don't understand history, you are doomed to repeat it. And that's going to repeat. And the Hurricane Center says $150 billion damage. There will be 10, 20, or 30,000 people that will be dead probably. It will be an amazing event.

So it's been eight years or so that I'm talking to the Charter Review and the Ethics. This has dragged on way too long. So you need to be prepared for eight inches of rain within the next few days. If you're not prepared, you're not moving fast enough. If the public doesn't understand it then that's how they are going to get swept away, as in every storm previous.

And I did make the first phone call --

The Chair: Time is up, Mr. Rand.

Mr. Rand: Thank you.

The Chair: Thank you very much for your time, sir.

Open the floor for other business. Thank you, sir. I need a motion to approve the July 8th minutes.

Commissioner Shechter: So moved.

Commissioner Brunson: Second.

The Chair: So moved by Commissioner Shechter, seconded by Commissioner Brunson. All in favor, signify by saying aye. Any opposed, same sign. Minutes approved.

Mr. Wolfe: I have something for new minutes, Mr. Chairman.

The Chair: Yes, sir.

Mr. Wolfe: I think next month's – September – we opted for an evening meeting and I wanted to discuss how we are going to get the word out to community groups. I think it's a wonderful opportunity for organizations such as League of Women voters, maybe Chairs of the two political parties in Broward County, community organizations, homeowner's groups. I know we had some interest initially with the Ethics Commission from Charlotte Greenberg and some other organizations; Broward Coalition, and stuff like that.

And I'm worried that we're going to have this meeting and look out at an empty audience and I was just wondering if we could elicit some help from the Office of Public Communications in doing some e-mail blasts. If they can do a media release, and ask our friends, Miami-Herald, and the Sun-Sentinel; to get that in the blogs. Do a brief article and maybe do some media work and see if

we can get some info out because I think we're at that point, I think, where we have to start putting something together and I really would encourage the public to participate at this point before it gets too late.

The Chair: Those are good recommendations. Ms. Cepero, any problems with any of that?

Ms. Cepero: No problem at all, I will talk to the Office of Public Communication as well as the Commission and schedule the press release and reach out to the community.

The Chair: It's pretty inexpensive.

The Chair: It's early September – it's the second Wednesday so we should probably start as soon as possible – September 9th. Am I correct on that before I give somebody the wrong date; September 9th.

Ms. Cepero: Yes, 6:30 p.m.

The Chair: Okay. Any other old business?

I asked Ms. Cepero to send a draft Ordinance to you all. Mr. Teitler has prepared this. It is typical of an Ordinance for the County. And what I did was took that list that we've been throwing around, bar those that have been determined to be outside of our scope and I just had them put in there – they're kind of in order as the suggestions came in. I don't think there's any magic to that order.

If anyone's pressed to change that around a little bit or address it in a different order, we can certainly discuss that. Before we do, I would just ask Mr. Teitler to comment on the Ordinance and on the order of issues within.

Attorney Teitler: Well, this document was prepared just as a – to give this Commission some structure on what we need to do and it's based on my evaluation of what we've all heard and seen since day one; priorities, and of course it's entirely up to each member of this Commission to determine what goes in this document.

Three of the issues in the Issue Priority List that I wanted to make a brief comment on – we've already spoken about making this document relate to all County employees and all County officials, and again as I mentioned earlier today, it's our Office's view, that there is no discretion and with this Commission; to broaden the task to create a document for all County employees and all County officials. It's just strictly for the County Commission.

Two other issues that have been bounced around; one includes having an Ethics hotline for the County Commissioners. And it's my view that that would not be necessary in this document because the County Attorney's Office fulfills that role on a regular basis. The other issue relates to whether the commission wants to include an Honest Services Fraud provision in the Code of Ethics.

And again, it's – it's referred to in paragraph B under the Federal statute and I don't know personally whether that's necessary to include within the document that this Commission is preparing, because it already exists in Federal law so you know, that's just my view of those three issues that have been bounced around.

The Chair: Thank you, Mr. Teitler. I think as you look through that document, be prepared to discuss each of those issues. There are some

comments within – if you look under B 1, Acceptance of Gifts – there's some comments in there in parenthesis (total ban from all sources or tighten limits, time parameters from accepting vendors and lobbyists, all others disclosure.) Those are simply comments that have come from minutes of past discussions.

They are not inclusive nor exclusive of what we can put in there, want to put in there, take out of there, so don't take any of this as hey, this thing is on its way. Those are all comments that have come out of past discussions.

We need to be prepared, as Mr. Wolfe just said. It's time to get working and hopefully in our September meeting we will have some meaningful attendance and input from some residents and we will begin to work and fill in each of these sections as we move forward.

So be thinking of that. What should be in there? What shouldn't be in there? And I don't intend to bounce around unless as we begin to work on this we find out we have to address procurement selection at the same time as we are doing the acceptance of gifts. There might be some bleed over as we go through sections. But other than that, I want to complete Section 1, before we go to Section 2.

So, again, if you think that these things are out of order, numerically, and they need to be adjusted, let's discuss that and we'll make the appropriate adjustments. I think they are in chronological order now. That just makes sense based on how many times those issues came up; from either members of this Commission or county Commissioners that came before us or other guests that came before us to testify.

Any comments or discussion on that?

Mr. Collado: Mr. Chairman?

The Chair: Mr. Collado.

Mr. Collado: Just a question because I am not from the legal world so I have to ask these questions. With discussing with the Commissioner that appointed me, her views on these issues – be outside of the bylaws, guidelines that governs this Commission?

The Chair: You are more than welcome to do that.

Mr. Collado: Okay.

Commissioner Shechter: When you talk about 3A, moonlighting. You're talking about outside employment?

The Chair: Yes, sir.

Mr. Wolfe: Mr. Chairman, I guess this is a legal question for counsel. Mr. Herron's comments were great this morning and I am going to re-read them when we get the verbatim back.

I just wanted to ask the legal question – in terms of banning political contributions within a time frame from a vendor doing business in front of Broward County – I am thinking of acquaintances and associates of mine. I just want to know. Is that legal? Can you do that? I mean, if you have a – I'm just throwing out a name -- you hire "X" to be a lobbyist for the County of Broward up in Tallahassee and we then try to do an Ordinance that says you, Ron Book, or you, Dave Erics, or you, anybody, you're not allowed to give a contribution to a County Commissioner. Is that legal?

Attorney Teitler: I believe putting time parameters – I would have to look into that further for this Commission.

Mr. Wolfe: I know under state law they can't contribute during legislative session. Legislative bodies – there are timeline constraints. But I don't know of a total ban and I don't know if it conflicts with state law, does it? Does it not? I don't know if we can do that or not. I just wanted to ask.

Ms. Rorapaugh: Yeah. I mean, some of it – I know in some states they have very stringent policies in cities and counties about when you are going after a contract at that point. You cannot give contributions. You are prohibited of giving contributions during the process for six months, a year, two years.

Mr. Wolfe: Uh hum.

Ms. Rorapaugh: Another part of that puzzle is disclosing what contributions you would make six months into that process. So --

Mr. Wolfe: Which is similar to what Deerfield is doing in their Ethics Code.

The Chair: If I could comment. I don't know the legality of it; whether you can prohibit somebody from contributing to someone's campaign. We have heard that time and time again from different people. And upfront, or when they're doing business. You can manage that. I don't manage our agenda. That's done by the City Manager and the City Clerk. If I'm up for re-election and somebody gives me a campaign contribution and then they get put on our agenda three months, three weeks, six months down the road, I have no control of that. So I don't know how you would manage that piece of it.

I understand once it's on the agenda, not taking that once they are doing business with that quid pro quo mentality. But prior to that, how do I

manage that if I don't manage the agenda. I don't set it. I don't put those things before us. I don't open the RFP process.

So, I think those will be some of the things that I'm looking forward to having some debate on.

Attorney Teitler: And I will look into that.

The Chair: Mr. Bakalar.

Mr. Bakalar: For discussion purposes, how far out do you bring that? All employees? Enforcement will be a ban. So --

The Chair: And again, our answer is clear on that. Ours goes to Commission and Commission only. It doesn't go beyond that.

Mr. Bakalar: Oh, I don't mean that. I mean lobbyists, employees, of firm. Employees of firms. Not County employees.

The Chair: I enjoyed Mr. Herron's comments thoroughly. And that's one of the things he said. Contributions from a vendor or an associate of the vendor, a family member of the vendor, a friend of the vendor. How do you do that?

Mr. Bakalar: Right. Sounds nice but how do you enforce that?

The Chair: In reality, I don't know.

Ms. Rorapaugh: I think the history of this, as I recall, had to do with bond counsel, bond business, not just in Florida, but all over the country. Now to be a licensed bond person, you basically sign on to an internal Code of Ethics within your trade association that says you will not participate in political contributions, fund raising, etc., etc.

And in some states, they have turned that into statute also.

The Chair: And again, if there's policies and procedures in place for those things, maybe that's something we don't even need to wrestle with. Ms. Coward.

Ms. Coward: Just for scheduling purposes, I know that next month you said we are going to hear from the public. Thereafter, is it just going to be us discussing all those issues or do we have other speakers scheduled?

The Chair: No. There will be no more speakers scheduled unless something comes up that's unanticipated. It's a public meeting, we have to provide public comment. We will do so every meeting. This evening is no different. We will have an agenda of business to conduct but we will have time certain for public comment and we were hoping the evening would bring out more people than the work day could. So that's what we're doing.

Commissioner Shechter: Did we decide that we were going to have public comments first in September?

The Chair: Do you remember that discussion? I know that we discussed it. Does anybody recall that? Monica?

Mr. Fink: I seem to recall the public was going to go first so that rather then hold it to the end and make them stay later --

Mr. Wolfe: That would allow the Chair then the option to abbreviate the agenda or move things around depending on the size of the audience.

The Chair: Well, if we didn't, I'm good with that; I'm good with hearing the public first.

Ms. Cepero: Yeah, we can certainly do that if it's a prerogative of the Commission. But I do recall we had talked at least at one point that we would

start with regular business and then 30 minutes into it, then do public comment, but certainly you guys can choose to do what you'd like to.

Mr. Wolfe: As long as we advertise it to the public in advance.

Ms. Cepero: Correct. And if you could set that direction so --

The Chair: Yeah, I'm good with that. I would like to hear the public first. Any objections to that? When you advertise it, advertise it as such.

Ms. Cepero: And do you want me to set a time certain or just say at the beginning, 6:30, is public testimony?

The Chair: Let's do a time certain and again, it's going to be a great problem to have if a lot of people show up but we'll take a vote at that time whether we need to extend the time or not. But it will be time certain, three minutes each for the aggregate time of 30 minutes. But if we need to extend that we'll take a vote on the floor to do so.

Any other questions or comments? Thank you all for your time. Oh, I'm sorry, we have the recap. I apologize.

Sorry. We have the recap. I apologize.

Ms. Cepero: Not a problem, I just want to make sure it gets on the record. And really today, it was not like in the past and you won't all get blasted with information this next time.

The only two deliverables I have at this point are just the follow-up for the Office of Public Communications to get the word out on the evening meeting and then also, Mr. Teitler was going to look into the political contribution laws as it relates specifically to the ability to limit or prohibit campaign contributions.

As always, if you have anything directly you would like to share with me or get out, please e-mail me directly. And that's it.

The Chair: Motion to adjourn?

Mr. Wolfe: So moved.

Mr. Fink: Second.

The Chair: We are out of here. Thank you very much, folks.

(The meeting was adjourned at 11:20 a.m.)

Minutes
Broward County Ethics Commission

September 9, 2009

MEMBERS: City Commissioner Neal de Jesus, City of Cooper City - Chair
Howard Bakalar
Washington D. Collado
Robin Rorapaugh
William Scherer
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Brad Seff, Real Time Reporter
(Transcribed by Leah Leu, Real-Time Reporter)

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 6:30 p.m. on September 9, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

The Chair: Good evening, it is 6:40 p.m., we now have a quorum for the Ethics Commission and we will call the meeting to order.

May I have roll call please?

(The roll call was provided by the Real-Time Reporter.)

The Chair: Thank you. Do you have anything before we start? Okay.

First on the agenda is public testimony. There are numerous members of the public here. I am glad to see. Welcome to everyone. We are glad you showed up. Hopefully you are here to share some of your thoughts and concerns with

us. Are there any members of the public wishing to speak? Ma'am?

Ma'am, if I could ask you, at the end of your three minutes when you are finished, if you could fill out a speaker's card for us. I would appreciate that. Thank you.

Ms. Greenbarg: Good evening. I am Charlotte Greenbarg, President of the Broward Coalition. We are comprised of over 200 condos, HOA's and community organizations, plus individuals. We have been advocating for over 30 years for the most stringent ethics laws that will withstand legal challenges. We believe it's especially important in these times for all elected officials to willingly accept them in both letter and in spirit. What I am going to suggest doesn't preclude what exists already. It's in addition to what already is on the books but is unfortunately very rarely enforced.

The best law that we believe would be the simplest. Don't ask, don't take. Next to that, we advocate the following: No elected official nor spouse, significant other, shall lobby. This ban must be in place for two years after the official has left office.

Elected officials must not accept gifts for the value over $25. Funding must not be granted by a vote of elected officials to any organization in business with the County. Using tax dollars, for example, to pay for tables at organizational

functions should be prohibited. Too many times this becomes a quid pro quo for political support from the leaders of the organizations that are being supported.

We pay considerable designated tax for social services to a fund designated -- to provide grants to charities. All lobbyists must reveal payments by clients. Everything they get and everything they give, whether it's contributions, whatever it is, is added to the cost of the doing business by the clients. Government -- that is us, the taxpayers -- pays more for everything that the clients provide.

And finally, for all of the statutory or rules, penalties must be severe enough to discourage violations. The first violation should incur a $5,000 fine. The second violation would require removal from office.

The Chair: Thank you, Mrs. Greenbarg.

Ms. Greenbarg: Thank you.

The Chair: Are there any other members of the public wishing to speak?

He has something to pass out. Yes, sir. And sir, if I could ask you when you are done speaking, if you take a moment and fill out a speaker's card, I would appreciate it. Again, you have three minutes.

Mr. Rand: My name is Russell Rand. I appeared before, and I've appeared before the Charter Review and before

the County Commission and this is just a memo that I read into the Commission concerning the budget and the environmental agency which I had worked for 29 years and again, the elected officials are not following the law and policies that they themselves have established. They are not following any of the Constitution of the United States; Federal law, state law, County law, their own laws and ordinance.

I don't know how you can craft some magic words that are going to make them follow their own policies which they don't do. And I'm the living, breathing, talking example of this and this has been an incredible nightmare that's gone on for almost 35 years since I was first hired in the County Environmental and -- the waste and fraud that is inherent in the system which I could talk for hours about that I have observed first hand within is what's sinking this ship and all and they are trying to balance the budget without really tackling the real issues which is the raw manipulation of a processes and all.

And I just don't see any accountability that's ever been enacted yet, and certainly they're not following the mandate of the voters in 2002, and subsequent Charter Review and whatnot.

I don't see any teeth that is in any of these things. They just ignore the words. Until there is a mechanism for accountability, they are just going to keep getting away with this and all.

I don't know how you're going to instill that mechanism, either by fines, or you know, they end up being slapped on the wrist type things that are not really tackling the heart of the issue. And there has just been a tremendous amount of impropriety that I have observed firsthand and have suffered the result thereof.

The County has taken approximately $350,000 from me. My life is in danger and continues to be in danger until the day I die from the asbestos I had to sweep 23 years ago in the County's environmental laboratory.

So just waiting-- I don't know that I will live long enough for some accountability enacted in these things. The Commissioners were elected to be the public watchdogs of the public's money and they are just not doing that.

And they really don't have a hands on ability to do that and anybody who works for the organizations and observes firsthand and tries to correct the situation or point out wrongdoing is thrown under the bus, off the cliff; the pirates are sailing the ship and all.

I know the gang plate very well. So--

The Chair: Mr.Rand, can I ask you to complete your thoughts? Time's up.

Mr. Rand: The lack of ethics that is still apparent there by the people who lack the integrity to enforce the ethics.

Ethics are just words. And has to do with the people -- the people need to enact these words and they are not doing that. That is the lack of integrity on their part.

The Chair: Thank you, sir. Thank you for your time. Mr. Rand, if I could ask you to fill out a speaker's card for me.

Any other members of the public? Mr. Lewis.

Mr. Lewis: Thank you Mr. Chairman. I really don't have any prepared comments. I am here to kind of share with you why the Charter Review Commission of 2000 - 2002, first put the ethics issue into the Charter and required the County Commission to pass a code and I wanted to explain and give you some background of our discussions at the time. For those members I do not know, I was the Chair of that Charter Review Commission.

We were undergoing a crisis of confidence with Government. It has certainly gotten worse. If the people in the public do not trust their elected officials and their appointed officials, and their public employees, then the problem even gets worse.

But we asked for -- we could have easily put into the Charter specific languages and a set of ethics. We had numerous codes that we had collected and looked at. You will find those in the record of the Charter Review Commission of 2000. But we chose not to because we recognize that things change. And so we felt that those kinds of codes and issues ought to be an

ordinance in the County so they could evolve and take into account new circumstances, which is why we did not put in the Code of Ethics in the Charter for the 2002 vote.

We did put in the requirement that the County Commission create this ordinance and that requirement passed as part of our Citizen's Bill of Rights by some 82%, 82 or 84%. So it was very widely supported.

And we are very disappointed that the Commission didn't do their job. And certainly one of the things that you may want to look at, is what happens when a body, an elected official doesn't do their job and I would encourage you to do that.

But one of the important points that I wanted to make to you, based on the news stories I have seen about the work of this group, is that your scope is too narrow. You tend to think about only the elected officials and truly the elected officials we have serious problems with. And perhaps disclosure is the root or avenue that you need to go into and perhaps you need a peer group review type of mechanism to kind of enforce more generalized common sense rules.

But the rule we felt was that the ethics were for the employees; the public employees and the people who showed up before the Commission. We had been given numerous hours of testimony about people who had come up in front of the public

body; employees and public servants who had just misled the body. They didn't know. The elected officials didn't have the information.

And so we wanted to create and we wanted to encourage the Commission to create Code of Ethics not only for themselves and the elected officials, but also for all public employees. Simple things. You may not lie. You must disclose all the information that you know. You must be truthful in your responses in all your dealings with the public. You must create this process of peer group review so that people could regain confidence in the appointed and the general employees that are employed by a public entity as well as the elected officials.

The Chair: Can I ask you to complete your thoughts. Your time's up.

Mr. Lewis: I guess that's my thought. I'd be happy to answer any questions if anyone has any.

Mr. Scherer: How would you do that?

Mr. Lewis: Which one?

Mr. Scherer: The last one. Our charge is to do a Code of Ethics for the County, so how would we reach the employees with that charge by the voters?

Mr. Lewis: Mr. Chair --

Mr. Scherer: He's the Chair --

Mr. Lewis: I said Mr. Scherer. But I'll go to Mr. Chair and then to Mr. Scherer.

Mr. Scherer: Thank you.

Mr. Lewis: "J" -- we specifically specified in "J" of the Charter that the County Commission shall enact an Ordinance by conflict of interest section in the County Code that requires Commissioners, County employees, individuals appointed to Boards, committees, agencies, and authorities to avoid even the appearance of impropriety.

We put as the scope in the Charter. That is your mandate. If this body exists to create the Code of Ethics that we had required in the Charter, then the scope already encompasses that. And we were envisioning that that would be part of the Administrative code that everyone who is employed by the County would sign and agree to. Okay? And that also requires all public officials and so forth and so on. But that's how we had envisioned it at that time.

Mr. Scherer: Would we also ask the County to enact something that would reach all of the city officials within 31 municipalities in the County to all have the same code?

Mr. Lewis: Mr. Chair, if we could, certainly we would like that but I don't think the legal authority exists. We had many legal opinions that said the County is on par with the

cities; that they are both creatures of state statute. So they're even.

So the only thing the County Charter could do lawfully under this sanction is to encompass all the employees and all the people, and all the Boards that are a product of the County. So I don't think as a practical matter or a lawful matter as the opinions were given to us that you could reach into the cities and do that.

The Chair: Mr. Scherer, I am going to ask Mr. Teitler to address this issue for a moment.

Mr. Teitler: The Charter provision that we are specifically dealing with, the one that was passed by the voters last fall specifically provides that the sole purpose of this Commission is to establish a Code of Ethics for the Broward County Commission. That's the specific narrow scope of this Commission; to create a Code of Conduct, a Code of Ethics for the Broward County Commission. It doesn't reach all public employees with the County.

Mr. Scherer: I'm not sure I agree with that. I'm not sure we couldn't say as your first order of business, you shall enact a Code of Ethics for all of your employees as a part of your Code of Ethics and then #2, you shall, whatever we determine.

Mr. Lewis: Number "J", letter "J" --

The Chair: Mr. Lewis, I am going to ask you to hold that for minute.

Mr. Scherer, I am not going to open the floor for debate until we have heard from all members of the public and then we'll go back to our agenda, under "Other Discussion."

Mr. Scherer: Just seemed appropriate.

The Chair: I hear you.

Mr. Scherer: I mean, there's not a lot of people standing in line --

The Chair: Mr. Scherer, if I could speak please. While you were absent we discussed this issue. We asked for a legal opinion --

Mr. Scherer: I read the minutes. Thank you. I don't agree.

The Chair: And that's okay. You are entitled to that. But until I recognize, I would ask that you refrain from commenting. Mr. Lewis, if you don't have any other comment --

Mr. Lewis: I would like to respond.

The Chair: Go ahead.

Mr. Lewis: It would seem to me, that the Charter Review Commission, the most recent one under Chair Mosely was responding to the requirement that our Charter Review Commission put into the Charter, which is item "J" of the Bill of Rights, if you will; the Citizen's Bill of Rights.

And the Code of Ethics, that the most recent Charter Review Commission refers to that the County Commission did not pass which was their requirement to do so, is codified in "J" of the County Charter and irrespective of what this committee does, irrespective of whether you take the narrow approach that it's simply for the County Commission, the County Commission has not fulfilled its obligation of "J" and created the Code of Ethics as required under the Charter as specified and put into the Charter.

And with respect, I don't know of an opinion which would relieve the County Commission from doing what they are mandated to do. And if this committee has any worth whatsoever, they certainly should encompass the Code of Ethics which is physically and explicitly written in the Charter.

The Chair: Thank you, Mr. Lewis. Any other members of the public wish to comment?

Mr. Lewis, if you would take care of a speaker's card. I would appreciate it.

Mr. Lewis: Sure.

The Chair: Thank you, sir.

With no other members wishing to speak, we will close the public hearing.

Before I go on to "Other Business," Mr. Teitler, do you have anything else you would like to address?

Mr. Teitler: No.

The Chair: Has your opinion changed as far as what our scope is and what we are to address?

Mr. Teitler: No, it remains as my office, as we defined previously. The scope is narrow. It's as it was before the voters in November as it was phrased on the ballot and it does relate to a Code of Conduct for the County Commissioners. That's the narrow scope.

The Chair: Moving on to "Other Business" I need a motion to approve the Minutes of 8-12-09.

Mr. Wolfe: So moved.

The Chair: Moved by Mr. Wolfe. Second?

Mr. Bakalar: Second.

The Chair: Seconded by Mr. Bakalar. All in favor, signify by saying aye. Any opposed, same sign? Minutes pass.

Other business; we were sent several documents via e-mail. Commissioner Brunson sent a few documents that we have copies of and what were the other documents, Monica? There was another document that we were sent.

Ms. Cepero: You have a document that was sent in that we received from Miami-Dade Commission on Ethics and Public Trust. I e-mailed it out to everyone this afternoon but I didn't know you would have a chance to take a look at it. It's about a seminar that they wanted us to make sure that you are aware of that they are putting on in October.

The Chair: October 16th. You all have that e-mail.

As discussed last meeting. After public input, we had agreed to go right to the items that were plugged into the working document, if you will. The drafted Code of Ethics. The first item on that document is Acceptance of Gifts.

At this time, I would like to open the floor for discussion on that item and that item only as we discussed last meeting. We will attempt to resolve item by item and come to some sort of consensus or not. And again, this isn't the only meeting. If we can't get past that one, we will continue until we do.

But -- does anyone have any thoughts or comments in terms of Item #1, Acceptance of Gifts?

Mr. Wolfe: Absolutely.

The Chair: Who was that?

Mr. Wolfe: Me.

The Chair: I'm sorry. Mr. Wolfe.

Mr. Wolfe: I am a firm believer and I've discussed that with my County Commissioner, that I think that there is a difference between having a cup of coffee, having a refreshment in their capacity as a County Commissioner in front of a civic group, a Homeowner's Association.

But I do believe there should be an absolute ban from accepting gifts, meals, travel, between a Commissioner, a spouse,

a domestic partner, and people that are registered lobbyists in front of this Commission and vendors in front of this Commission.

I believe very strongly my Commissioner can buy his own lunch. I don't believe the state ban -- the state statute is sufficient. I think what I've heard is that we can't give bans in this building. I don't believe it. And I think that's the first thing we can do. We can explain it so that the public will understand and I think we ought to seriously look at a gift ban.

The Chair: Any other members have any comments?

Ms. Rorapaugh: Are you thinking a 100% ban, or $25 or $50?

Mr. Wolfe: Actually, I would like to write it. I mean, I think if I'm a registered lobbyist representing a vendor in front of the County Commission, there shouldn't be gifts, period.

I mean, you can always make exceptions for gifts of appreciation, a Christmas card, condolence for a wedding, condolence for a funeral, things like that. But we don't need to have the lunches, the wining and dining.

I've been under gift -- reporting requirements myself in my previous employment. Florida state statutes are incredibly weak. There is no disclosure requirement and I just think that's something that an average citizen on the street would understand or appreciate. That's my thoughts.

The Chair: Robin, anything else?

Mr. Bakalar: Mr. Chair? I would suggest looking at both though. An absolute ban -- I'm sorry, an absolute ban from lobbyists as you were saying, but also possibly a limit, a ceiling for everyone else; those who don't register as lobbyists. So maybe a $25 or $50 absolute limit for everyone in the general public plus the absolute ban.

The Chair: Just so there's no assumption, for the record, can you -- when you say everyone else? What are your thoughts? Give us some examples.

Mr. Bakalar: Charities that wouldn't register. They wouldn't have formal lobbyists. Five tables at an event, or just whatever, a holiday present from John Q. Public, $200 present, a gift basket. Not a registered lobbyist.

The chair: Gotcha. Mr. Scherer?

Mr. Scherer: If I had something to add, I'd add it.

The Chair: I'm sure you would. Mr. Collado?

Mr. Collado: The only thing I'd add to what Mr. Bakalar said is to discern the ability of a company or a person that is a registered lobbyist from contributing to a cause that is near and dear to one of the Commissioners and separate that from a gift; what would be considered just an open gift.

For instance, if Commissioner "X" has an affinity for Children in Distress or whatever, that would be a good cause for

one of the registered lobbyists to contribute. To discern that. You know what I mean?

Mr. Bakalar: Right. There's a distinction between a direct gift to a Commissioner or you know, donating on behalf of -- you know donating on behalf of --

Mr. Collado: And words to that affect –

The Chair: And I believe we will be addressing that issue under Item 6, Solicitation of Contributions for both campaign and charitable. That is #6 and it's broken down into those two categories and that's where that would fit in.

Any thoughts on the disclosure aspect of that? If it was a total ban, a limited dollar amount, whether it be from a lobbyists or any other member. Any thoughts on the disclosure portion?

Ms. Rorapaugh: I think if we don't come to a consensus on a complete ban, then yes, we should have 100% disclosure and that disclosure should be -- it should be within a week of the gift being given. Right now, I believe, everyone is on a quarterly reporting but with the internet, it should not take much to make that an almost immediate reporting.

And the other thing, Bob, I would be interested in your opinion on this. Should this type of gift ban be extended to aides of County Commissioners?

Mr. Wolfe: Well --

Ms. Rorapaugh: To the aides of the County Commissioners since they word at the pleasure of the County Commission.

Mr. Wolfe: I do have a problem with this whole process which I think I -- it's hard to talk first because of the Sunshine, we can't talk privately. But with Dan's comments and Mr. Scherer's comments, I mean, I sort of grapple with this whole thing too. I am not an attorney, but I've been in government since I was 18, 19 years old. And when I hear phrases County Commission, state legislature, Governor's Office, governmental agencies I've worked for in the past, I view an aide who is an appointee, to be part of that office.

I believe -- I am a staff member to a constitutional officer, but I'm part of that office through an appointee of hers and where I do recognize the wording of the narrowness of that scope, I am struggling with it internally because I do believe you can interpret what is the County Commission. Is the County Commission just nine people? Or is it nine people plus their staff, plus their exempt appointees? I think there's a line to be drawn somewhere.

But, I do think the public expects behavior to change or to have some ethical standards applied to elected officials, that also applies to the staff. Because I've been around government so long that if you don't -- example, if we are to do

a gift ban and you don't ban gifts to spouses or domestic partners. That's certainly not a Commissioner and that's within our right to do that because if not, you're just opening a wide loophole.

And I think also we could have wording in their to expect them to self -- they can direct their County Administrator to make that edict for their staff. And I just don't know if I abide by that narrow reading. And I appreciate the County Attorney's Office on it, but I don't know if I agree with it. I think there's a little bit of interpretation that needs to be done.

Ms. Rorapaugh: Well, and I know when I served as an aide to various selected officials in states and on the federal level, I was always under the same gift ban that they were and the same disclosure requirements.

The Chair: Did we -- what was the question that you were asked to opine on and did it include aides?

Mr. Teitler: It didn't specifically include aides. It related to the scope of the Code of Conduct, aides or staff, related to -- whether the Code of Conduct would apply exclusively to the County Commissioners. Whether it would extend beyond the County Commissioners to staff, that may be an issue that we'll need to research a little bit further. I would think perhaps not. But there's no clear answer at this point.

The Chair: I would ask that you do further research based on the comments of some of the members that are here. There was some disagreement last time but no specific, other than -- there were a few members, obviously the minority or we would have had a consensus, that felt it should include – I would ask that you research the specifics of that. If it can be interpreted anyone under the Commission's direct control. I think that's what I'm hearing. Something a little bit further than it's just specifically to the County Commissioners.

I would also ask that the members of this Commission begin to think a little bit ahead that if it comes back the same, where do we want to go as a Commission? Sir?

Mr. Wolfe: I guess the follow up to that is the nexus I'm formulating, when you talk about private benefit or gain -- when you talk about an elected official, you are talking about the spouse or domestic partner as well because there's a direct nexus there. If you don't take the gift but you're other half takes the gift there's still a connection. And I think we can rationalize that legally and I just think maybe it's not an overall encompassing every employee of Broward County but I think we can narrow it down to a control and chain-of-command type of situation but I think we have to talk about spouses and we have to talk about domestic partners or any significant others in this

gift ban and employment ban or whatever we call it just to make sense.

The Chair: Any other comments or thoughts on the opinion or the broadening of what we're asking counsel to research? Sir?

Mr. Bakalar: Just agreement.

The Chair: Any other thoughts on total ban from lobbyists, vendors, others, and/or disclosure?

Mr. Wolfe: Well, sorry to interrupt --

The Chair: Go ahead.

Mr. Wolfe: I think we can write an ordinance that makes a distinction between memberships and honorary and fraternal associations, trade associations, certificates of appreciation, a plaque from a homeowner's group, they're not banned from going to the Kiwanis's Club because they're the speaker.

There's a lot of verbiage in state statutes and from other states, included in here, that we can make clear distinctions so that you know, it's not just a draconian ban like up in Tallahassee where you technically can't have cup a coffee with somebody. I don't think that's the purpose we are talking about. I think they can still conduct their business as an elected official and go to charitable events, and go to community association meetings, and go to homeowner's groups and not feel

like their hands are tied in doing their job. We have to be rational.

The Chair: Well, let me ask you -- does anybody have any response to that?

Ms. Rorapaugh: I think he's right. We don't want our Commission or the Commission staff worried about accepting a T-shirt or a hat or participating in a spaghetti dinner at their homeowner's association's meeting. Whether it be a $5 dinner or a $10 dinner. But what we have to be careful of is that it's strong enough language that they understand that their attorney friend, who also represents as an attorney, is included in that ban and you know, vendors, the whole nine yards of the ban.

And then if they have a question which is how -- federal office holders handle it -- if they have a question, say an old friend is sending them the traditional Christmas gift, they ask the House Ethics Committee on the House side and the Senate Ethics Committee on the Senate side. I'm sure the County Attorney could fulfill that responsibility also if necessary.

There are some relationships in this County, because it's a small world where you have some of these Commissioners have friends who are lobbyists who have been friends of theirs for 35 years. So there will be some kicking on this one.

The Chair: Bob, I heard you say every elected official should pay for their own meal. But then I thought I heard you

say towards the end if they are invited to a function where there's a meal served, they shouldn't have to pay.

Mr. Wolfe: Well, I think there's a distinction between going to a community event open to the public or you're going to Himmarshee for lunch talking about the contract in the afternoon. I mean, we have to be rational about it.

Ms. Rorapaugh: Broadly attended.

Mr. Wolfe: Yeah, broadly attended. I mean the -- it's not a secret. There's a lot of folks that wine and dine with a certain group of lobbyists and there's nothing wrong with that, it's legal. But I think there's some steps we can take to get the public feeling better about their elected officials and that's a small baby step that everyone can agree to.

I mean, certainly every legislator totally got banned. And I think the one in Tallahassee was a little too Draconian but they're living by it.

Ms. Rorapaugh: And if we do a broadly attended language which is traditional language -- other governmental bodies use it. They can also disclose when they attend those events. And if I'm at a broadly attended event and eat a $10 piece of chicken, there's nothing that says I should report it. We can add disclosure to things they believe are exceptions to the ban.

The Chair: Okay. Any other thoughts?

I would caution that we leave too much for interpretation and they believe are exceptions to the ban and it be written clear enough -- remember, a lot of the concern is what do I have to follow and then I will follow that. So rather than get into those areas where unless you think it's an exception that we clearly define those if that's the direction we go. Here are the exceptions so that if we're going to say, these are the rules you need to be held accountable to, let's make them pretty clear, not hamstrung like you're saying. Understand that.

Mr. Wolfe: I think with the gift issue, it's easier to write that. Unlike some of the other ones.

The Chair: Any other thoughts on Acceptance of Gifts, disclosures, bans? What I would ask staff to do is based on the discussion and the context of that issue, that we begin to craft some language that addresses those issues and get it to the Commission, including those members that aren't here and begin to get feedback and craft that into a body of text that makes sense and we can start dissecting as we go forward.

Does that makes sense to you all? Rather than trying to sit and write that section.

Ms. Cepero: Mr. Chair, just a point of clarification for the direction as we draft this language. Are we looking at -- did I hear correctly that some kind of resolution or some sort of direction for a partial ban for lobbyists, or absolute ban for

lobbyists, and partial ban for others. Was that the consensus or you just want to have all the options listed and come back and talk about them?

The Chair: Well, what I'm hearing is begin the draft based on the issues that have been brought up as a code and as we begin to read that and weigh in further and other members begin to weigh in, there may be some addition or deletion of what we've discussed thus far, but at least it begins to take on a text that reads like it's a code on acceptance of gifts.

Is that what I'm hearing from you all? Should we take another --

Ms. Cepero: Okay.

The Chair: Let's go on to #2, Voting Conflicts. I'm not quite sure -- I mean I know this has come up on several occasions but there is a -- there is a rule in the County Charter that has addressed this issue. And I know it kept coming up and it ended up in our list of items but as it reads now that there is no participation and discussion and that the County Commissioner must leave the dais on an issue of conflict.

Are there any other thoughts or comments -- Rob, did that end up back in here based on some discussion that I'm not recalling?

Mr. Teitler: I think it was just one of the issues that's been there floating since the beginning so it was included in that list. But it does not have to be included in the code.

Mr. Collado: The question I would have is what would be the difference between getting up from the dais and conducting business over a phone and coming back to the dais?

The Chair: I'm not quite sure I understand.

Ms. Rorapaugh: I think we had a Commissioner who actually testified in front of us about communications amongst Commissioners via their cell phones, texting, etc., etc., even though they had clearly left the dais due to an apparent conflict and I know when the Charter Review Committee was looking at this, that was a major concern. Is that at this point, even if you leave the room, there are a lot of different ways to communicate.

The other question I would have is I'm not sure when the person or what compels the Commissioner to file the paperwork on that conflict. Does that happen before or after the agenda, the item is on the agenda, or earlier in the process?

Mr. Teitler: Could you repeat that?

Ms. Rorapaugh: When is the County Commissioner required to file paperwork for a conflict?

Mr. Teitler: For an actual conflict?

Ms. Rorapaugh: Yes.

Mr. Teitler: I believe they would have to file it before -- after the meeting. But under the Charter provision that was brought up, the new Charter provision provides that if there is an actual conflict under Chapter 112, that the official has to leave the dais. This was discussed in my e-mail to the Commission back in March. If there is a conflict as described in 286.012, a possible conflict, they can remain on the dais and discuss. But if they do remain on the dais and discuss, they have to fill out a conflict form immediately after the meeting.

Mr. Collado: That's exactly my question. What would be the difference from remaining on the dais and discussing and filing the paperwork and getting up from the dais, discuss the business over the phone and coming back to the dais and not having to complete the paperwork?

And I say that because that's something that I feel the language needs to be put in, whatever we come up with, to clarify that distinction.

Mr. Scherer: I don't understand.

The Chair: I don't either.

Mr. Collado: There's an issue before the Commission and we're speaking about the issue. As I understand it, because I'm not from the political world or a lawyer of any type. If we are talking to that issue, if I'm going to discuss it and there's

a conflict with someone with whom I'm speaking, I have to complete a form. Is that correct? No?

The Chair: I think the confusion here is that the conflict is with me, as an elected official, discussing it with the other elected officials.

Mr. Collado: Okay.

The Chair: That's the conflict. Those are my peers that I can't speak with at any other time except in that. So if I have a conflict, I can't discuss that and attempt to --

Mr. Scherer: Voting conflict.

Mr. Teitler: If an issue is up for a vote.

The Chair: Right.

Mr. Scherer: You don't vote, then you don't discuss. So it's a voting conflict.

The Chair: So if I come off the dais and speak to a representative of that firm. There is no conflict in that. I can't vote on that. It's already a conflict, I've disclosed that. I can't discuss that. I'm off the dais. Am I off on that?

Mr. Teitler: If there's an actual conflict, you're off the dais. And you know, this is an issue that this Commission needs to decide whether it needs to be in the Code of Conduct because in the recent Charter, it may have been resolved. It may be clear enough.

The Chair: Why do you say may have?

Mr. Teitler: Well, it's already been addressed. This particular voting conflict issue that is a common issue. So --

Mr. Wolfe: I'm not understanding that either.

Mr. Teitler: Well, the Charter already provides now whether they have to leave the dais or not. And that's new. So, it already exists in the Charter it may not need to be in a specific Code of Conduct that's been drafted.

Mr. Scherer: The Charter says if they have a voting conflict, they can't vote and they also have to leave the dais.

Mr. Teitler: Right. If there's an actual conflict.

The Chair: Do you have that? Can you read that in its entirety for us?

Ms. Rorapaugh: Have we actually had Commissioners leave the dais since that Charter was voted on?

Mr. Teitler: I'm not aware.

Ms. Rorapaugh: And have any County Commissioners in the last two years filled out the paperwork saying they had a conflict before a vote, or after?

Mr. Teitler: I have seen that, yes. I have seen that. Yes.

Ms. Rorapaugh: Okay.

The Chair: Let's have Rob read the Charter so that we all have a thorough understanding of what it says and then we can continue the discussion.

Ms. Cepero: Tab 6.

The Chair: If it's addressed in the Charter, I don't see a need to have it in the Code of Ethics. If it's not specific enough in the Charter and you feel we need to add something to that particular question, then maybe we should begin to discuss that. I don't know that we need to reference one document in other document.

Mr. Bakalar: It has the distinction drawn between actual and a little less than actual.

Mr. Teitler: Well, I'll read what the Charter provides -- it's section 2.05(e) Voting Conflicts:

"Any County Commissioner who will be required to recuse oneself from voting on a matter to be considered by the County Commission will recuse oneself from voting on a matter being considered by the County Commission, due to a voting conflict pursuant to Chapter 112, Florida Statues as amended from time to time, shall leave the Commission chamber prior to debate and not communicate or participate in any discussion relating to that matter"

Voting conflict under Chapter 112 is an actual conflict that inures to the benefit to the Commissioner.

Section 2 provides:

"That any County Commissioner who recuses onself from voting on a matter being considered by the County Commission due to the appearance of a voting conflict."

This is not an actual, but it's a perceived appearance of a conflict pursuant to Chapter 286, Florida Statutes, or for any reason not provided herein, shall disclose the conflict prior to debate and may remain on the dais and participate in the discussion relating to the matter.

So the disclosure needs to be made to the Commission before the debate. The form needs to be filled out subsequent to the debate.

So that's as it already exists and was passed by the voters.

The Chair: Any comments? That reads pretty clear. What is the enforcement mechanism for that Charter? If a Commissioner does not disclose prior or complete the form after?

Mr. Teitler: Well, the violation of a voting conflict, particularly under Chapter 112, would be a violation of the Code of the Ethics Commission. So, it's statewide and pursuant to state statue.

The Chair: And the disclosure form post discussion? Or post disclosure?

Mr. Teitler: That's all part of the process.

Mr. Wolfe: So even though we're stricter than state law, we're still tied into the Ethics Commission if there's a violation of our Charter? I guess that's my question.

Mr. Teitler: If there's a violation under Chapter 112.

Mr. Wolfe: For Chapter 112.

Mr. Teitler: Right.

Mr. Wolfe: And how does 112 apply to special private gain. Does that mean individually or does it apply to my spouse?

Mr. Teitler: It's part of your packet. The statue defines all those terms. Under 112.3143, defines it.

Mr. Wolfe: Thanks.

The Chair: Any other thoughts, comments? Outside Current Employment, #3.

Ms. Cepero: Mr. Chair, under Voting Conflicts, did you need anything in the draft?

The Chair: No, I don't believe so. I didn't hear any comments. I believe it's clearly addressed in the Charter. I don't see a need at this point, that it be inclusive in here. I apologize for not clarifying that.

Under Outside Current Employment; the issues that have been discussed have been moonlighting, a total ban, or disclosure of that. Lobbying; lobbying down within Broward County. We've discussed that on several occasions. And conflicts of interest;

family members, lobbyists, and vendors. Thoughts, comments? I'm sorry, there's two more there. I apologize; use of County property or resources, use of County time. Bob?

Mr. Wolfe: I think I made my comments pretty clear the last couple of meetings that my interest in this area is simply I think -- I don't think it's proper to get involved with the private business dealings except when it applies to members of the Commission, or their spouses, or domestic partners lobbying other taxing authorities in Broward County.

I think lobbying is a fine profession but I think it creates inherent conflict of interest because I'm at a loss to find what other taxing authority might not do business in front of the County Commission and I think if you want to be a lobbyist, go to Tallahassee, go to D.C., go to Miami-Dade. But I think within the boundaries of our County, it's a bad practice.

I am sensitive -- if you're an attorney, I don't think your firm ought to be banned from Quasi-judicial hearings from within the County or things like that. But I don't think you have to appear in front of the City Commission. If a firm was in front of me and I know my good friend who happens to be the County Commission is a member of that firm, I'm getting that message. But I don't think they should be dealing with other taxing authorities in that area or representing private clients

in front of taxing authorities. I just think it's a bad practice.

The Chair: You're talking specifically about County Commissioners themselves?

Mr. Wolfe: Correct. And I think spouses, domestic partners. We've got to use that term throughout our document. You can't convince me there's not private gain when your spouse is involved, your domestic partner's involved. And I think there are lines that you draw.

If you're going to be a County Commissioner, you don't do business with a taxing authority. You can be a lobbyist in another county. You can go to Tallahassee and represent a client. And there's nothing wrong with being a lobbyist, it's just I think -- it creates a bad persona in front of the tax payers.

The Chair: If a County Commissioner's spouse is a lobbyist, they shouldn't – your thought is that they should not be able to lobby anywhere in Broward County, even if that issue is not coming before the County.

Ms. Rorapaugh: Correct.

Mr. Wolfe: Correct. I sure think that way. I mean, I just think you make a decision when you are in public office with what you're going to do. You can't play both sides of the street.

Mr. Scherer: What about other counties?

Mr. Wolfe: No, I think that's fine.

Mr. Scherer: Why? I mean there's plenty of commerce between Broward and Dade and Broward and Palm Beach.

Mr. Wolfe: But I don't see the influence -- the City of West Palm Beach is not going to come in front of the County Commission, I don't believe, and ask for budgetary requests, or zoning requests, or land use regulation. I might be wrong.

Mr. Scherer: Sometimes they're bigger deals than that.

Mr. Wolfe: They could be. I'm open to it.

Mr. Scherer: Then how about the state?

Mr. Wolfe: My initial reaction is a little bit removed but you know –

Mr. Scherer: Big deals there too.

Mr. Wolfe: Yes, there are.

Mr. Scherer: So where do you draw the line?

Mr. Wolfe: It's a good comment.

The Chair: Is there some thought that -- I hear what you're saying. I think Mr. Scherer brings up some great points, especially from the state level. I think that's probably more of a potential than another county coming in, although they can and I know they have, specifically on land deals.

But is there some thought -- does anybody have any thoughts about the types of issues? In other words, looking at the type of issue that may have the potential to come before the County Commission. Any thoughts on that? What I'm hearing right now is none; total ban on lobbying within the County, whether you're a County commissioner, or whether you're spouse or significant other of a County Commissioner.

There are some issues that may come back up from that City. There are some that clearly would not.

Mr. Scherer: Remind me what the current law is with respect to the statewide Ethics Code and Broward County -- our Ordinances that deal with that subject.

Mr. Teitler: Well, there's a Broward County lobbyist registration provision.

Mr. Scherer: I'm talking about Commissioners doing business; outside business. I know there's that "Thou shalt not have a special" --

Mr. Teitler: You're asking if it already exists in the Broward County Code?

Mr. Scherer: Yeah, yeah. I'm just trying to see what's on the books right now with respect to that. Private gain of a public official. The misuse of the position.

Mr. Teitler: It's probably under Section 2667 --

The Chair: While Rob's looking that up, I want to address the moonlighting portion. We kind of went over that and got right into lobbying. The discussion early on with that was moonlighting; a second job as it pertains to your job as a Commissioner. Some of that discussion was is it a full-time job? Is it not a full-time job and if it is, where and when can you work? Not just is that job a conflict, such as lobbying, and if it is, are those hours defined? And who says that it's 9 – 5, Monday through Friday.

So we need to have discussion on that topic of moonlighting as it pertains to any second job, not simply lobbying. That was part of that context of that conversation.

Mr. Scherer: Seemed to me that service on the County Commission started out to be moonlighting and now it's coming into a full-time job and other employment is moonlighting and I want to know the desirability of having County Commissioners full-time. I don't think that's so. I don't think that's what anybody wants.

And so I know I saw the term moonlighting in here. But I'm wondering why we're trying to rewrite that. And then I also wonder if we have the power constitutionally, to impair contracts in such a way that a County Commissioner can't work, or work in certain fields and I'm really wondering how ewe restrict

that. Certainly -- what do they make, $85,000 a year and it's not a full-time job. Nobody would think that, right?

Mr. Teitler: Well, Chapter 112, I think, provides that it's not its intent to remove somebody's livelihood.

Mr. Scherer: I'm sorry?

Mr. Teitler: Chapter 112 has a provision that says it's not its intent to restrict somebody's livelihood, but there are restrictions in there and 112 will cover outside employment.

Mr. Scherer: Right.

Mr. Teitler: There's nothing in Broward County code currently that restricts it. But it is in Chapter 112.

Mr. Scherer: Well, it would restrict it to the extent that the code prohibits voting on matters that, or taking action for private gain of the public official, right?

So if the County Commissioner is out doing some business and the agency that he's doing business with comes before the County, he can't vote because he has private gain. So I mean you attack it that way, already under existing law. I'm just trying to get a fix on what we're trying to do here.

The Chair: Anybody have any comments on that?

Mr. Wolfe: I don't think -- I don't have any great desire to define what moonlighting is or what other business a Commissioner can be involved in. I think when there's been a perception of problems recently -- has been when that activity

has been related to lobbying local governments in the County or representing private clients in front of other governmental agencies in the County.

Outside of that -- and I'm also very sensitive if someone is a member of the bar, an attorney, and there firm is doing Quasi-Judicial hearings and things. I think there's other issues to talk about that, but --

Mr. Scherer: But you assume the County Commissioner is out doing some business with the City of Miramar, or -- I don't know what cities you have here. What's your city, Neal?

The Chair: Miramar is a good one.

Mr. Scherer: Okay, City of Miramar, but then the City of Miramar when it comes back before the County to have something that deals with Miramar, that Commissioner needs to disclose, step down, leave the dais, put something -- a disclosure in writing maybe about the financial gain of that Commissioner was as to why that Commissioner -- I'm representing them on a legal case --

Mr. Wolfe: Or represents a private client in front of the City --

Mr. Scherer: -- or whatever. Make that disclosure. That's the way current law works.

So my question is why do we want to change that or do we really want to change that because it already comes back

around. It's up to the Commissioner. As long as the Commissioner is honest about the business that's being conducted and discloses it and doesn't vote and files disclosures for transparency purposes, doesn't that skin the cat?

The Chair: And I think you've made a good point there. That was discussed -- another part of that argument that we discussed at a few meetings was a County Commissioner lobbies down was the term that was used in a city. That City Commissioner has to decide to support or not support that issue and if they choose not to support that issue, is there a potential of an issue for the city then coming back up to the County and then not getting a fair shake at that. It's more of a perception question that put that to --

Mr. Scherer: If the city is going to do business with that Commissioner, then the city probably ought to figure that they don't have that Commissioner's vote because that Commissioner will have to abstain.

Ms. Rorapaugh: I think at this point, most cities would -- they may not feel that that's what's happening in real life.

Mr. Scherer: Well, then that's a whole different problem. So what you're saying is colleagues are rallying around to support the Commissioner who abstains under the -- what was the rule that they used to call it here? The Gerry Thompson rule

or the somebody rule that was here for a long time. I don't they have that anymore.

The Chair: I think that's true --

Mr. Scherer: May he rest in peace.

The Chair: -- in the issue that that County Commissioner was lobbying. The discussion that I'm recalling was any other issue. In other words, a County Commissioner comes before a city commission. That City Commission does not support that County Commissioner. Then that city is up for that.

Ms. Rorapaugh: Yeah, something totally different.

The chair: A whole other issue. It was more of an appearance of a conflict rather than a --

Mr. Wolfe: Well, the other thing -- I thought that one issue was something that almost -- most of the County Commissioners agreed on was something that was a toss off. I think there are only two County Commissioners that appeared before this body that thought it was a good idea to lobby in this County because they participated.

And I think about every County Commissioner that came before us said that was a good idea. We can go through the verbatim testimony and pull that out. But I think we've got to do a couple things here that the public is going to think, gee, that's a good idea.

Ms. Rorapaugh: And the lobbying down discussion with the County Commissioners that came before earlier this year, I think you're right, only two thought that was a questionable merit. Several of the Commissioners actually had that in their testimony and not being prompted.

There is clearly amongst the colleagues to the County Commission some question as to the impropriety of the practice.

The Chair: Monica, can we get those verbatim excerpts from those discussions? Any County Commissioner that addressed that issue specifically and get it to all members of the Commission.

I remember there was -- and we're going back several months now so it's hard to recall. But I remember there was some other should a County Commissioner a right to lobby down or not, there were some other issues there. Again, it seemed to be the majority of the Commission.

Mr. Scherer: Well, why lobby down? Why not lobby up? I'm more concerned with them lobbying up. I think there's more potential for private gain and all sorts of other things lobbying up. Lobbying the legislature or lobbying the Governor.

Mr. Wolfe: Would you propose a total lobbying ban?

Mr. Scherer: I'm not sure it's not already there in the scheme of the regulation under 112 and the others. You know, if they would just disclose and disclose properly. But I'm not

sure. We're trying to rewrite something that's a lot tougher to rewrite.

Ms. Rorapaugh: People who are either County Commissioners or very close to County Commissioners as domestic partners, etc., etc., husbands and wives, who do lobby up at this point. And is there appropriate disclosure to their lobbying activities?

I think a lot of the public would say no. But does this body have a right to try to extend its authority for disclosure and whatnot beyond Broward County; in the governmental bodies in Broward County? I don't know if we can do that either.

The Chair: Robin, I would ask based on that statement, is that a code issue? Is that a rule issue or is that an enforcement issue? Because if there are laws in place –

Ms. Rorapaugh: I don't believe there are laws in place that affect a spouse or even a County Commissioner's ability to lobby, represent legally, do business with entities beyond Broward County.

And the financial disclosure that the County Commissioners do right now is not a fine-toothed comb disclosure.

Mr. Teitler: Are we discussing beyond Broward County or just Broward County, as far as the restriction?

Mr. Wolfe: How can you tell somebody they can't do business outside of Broward County?

Mr. Scherer: Isn't it that they'll use their vote or that the business that they do with these other cities, whether it's down or up, influences how they're going to vote ultimately so ultimately if they vote appropriately or abstain from voting appropriately and disclose, doesn't that cure the problem?

I mean it's all about trying to buy a vote, right? Or influence a vote, so that if they just don't vote -- and that's what the regulatory framework is about, both inhibiting public officials from getting private gain in their votes, i.e., I vote for this, I'll vote for you in Miramar because on your issues, because have my husband as a lobbyist, or my wife as a lobbyist.

So to the extent that I don't ever vote for you and I disclose it, doesn't that solve the issue?

The Chair: Well, I think it does on the issue that you were before that Commission lobbying. I think the argument was, and that's why I want to see those minutes, was that is there an undo influence when you have so many other city issues coming back before the County and how that influences --

Mr. Scherer: But if every time they abstain from voting --

The Chair: They don't have to if it's not the issue that they've lobbied. If they come before our Commission and they lobby, and Rob, if I'm wrong, please correct me –

Mr. Scherer: I don't agree with that. I think if it prohibits --

The Chair: If I do any business before that Commission you're saying --

Mr. Scherer: If it's private gain of a public official or a relative, a business associate –

The Chair: I got you on that issue that they're lobbying on behalf of a client, it would be for private gain. Now that issue is voted no. The Commission chooses not to support that. The concerns that we're expressed by the Commission that I recall were what position does that now put that --– is there real or perceived fear of retribution for not supporting --

Mr. Scherer: By whom? Retribution by the official that has to abstain or retribution by their colleagues?

The Chair: They don't have to abstain.

Mr. Scherer: Well, they do have to abstain. I mean, if you got somebody -- a County Commissioner is doing business with Miramar, they've got a private gain there. Not just on that issue, but all issues. They have a death sentence, if you're going to read this the right way, on Miramar. So Miramar might be a little hesitant to hire them.

Mr. Wolfe: Might just be easier, don't do the practice --

Mr. Scherer: Well, it says it right here.

Mr. Bakalar: I don't think we have a rich history of abstentions. I could be wrong.

The Chair: Let me ask Rob to address this because I don't know that it goes beyond any issue that comes before that County Commissioner.

Mr. Teitler: Well, what I wanted to point out is under the existing Broward County Code, under 2657, we are dealing with an appearance of impropriety as the stricter standard in Broward County, so that is going to effect this particular issue as well. We're dealing with an appearance issue.

Mr. Scherer: I don't think it's an appearance. I think it's an actual.

The Chair: So let me ask you a specific question, Rob. If a County Commissioner lobbies down on an issue, they are a hired lobbyist for a client before that Commission. Any issue that comes before the County from that city, that county Commissioner would have to abstain, declare a conflict and abstain?

Mr. Teitler: On any issue?

The Chair: That's what I'm hearing from Mr. Scherer.

Mr. Scherer: Well, I'm just reading what I think the interpretation of the law is, because you got private gain potential every time.

Mr. Teitler: The potential, but I'm not sure that that's the actual.

The Chair: And it's not happening. I know that. I watch the Commission meetings.

Mr. Scherer: It's more of an enforcement issue, right?

The Chair: Yeah. I mean if that's the literal interpretation; one of the two attorneys interpreting it.

Ms. Rorapaugh: And some of this goes back to the multiple layers of votes in zoning commissions, etc., etc., that move some of this up in front of the County Commission and if I'm trying to put together a land deal in a certain part of the County and I'm looking for a good land use attorney and that land use attorney happens to be married to an elected official in a government that has some authority ultimately with zoning land use and whatnot, that attorney's probably going to get my money before someone else.

Mr. Scherer: And that official knows. There's no County Commissioner here that doesn't know who his or her business dealings in counties, or other cities, or the state. So they know that. So, you know, what's the problem? They just

disclose it and don't vote. And also in their disclosure say why they didn't vote and what the economic benefit would be if they made the vote, i.e., I make a lot of money in Miramar. They do everything I ever ask them to do. I might not do it very much anymore if that Commissioner can't vote on their stuff. But --

Ms. Rorapaugh: I think we also had --

Mr. Scherer: I could pick another city.

Ms. Rorapaugh: -- we had another County Commissioner who made a vote that clearly, when that vote was cast, she was not aware of any private gain that her family would receive, but because of it being part of a grant, her husband received a bonus and suddenly she was in front of the Ethics Commission.

Now, that is a County Commissioner who came here and said I need further definition. This cost me in reputation, it cost me in time, it cost me in money.

Mr. Scherer: Maybe further education and not changing the law. I heard her say that and I felt for her. But the point of the matter is that more training there, or more education there, rather than rewriting the law might have been helpful.

Ms. Rorapaugh: Well -- or we could ask them to do an even more thorough disclosure and if you're an attorney, or your husband is an attorney, or your wife is an attorney, how far do we go? Do we see your list of clients if they do certain types

of law? There's not a law firm in the County that would hire that husband or wife.

Mr. Scherer: She doesn't have to be a Commissioner. Or he doesn't have to be a Commissioner. I mean they cannot take the public job.

Mr. Bakalar: That's right. Conversely, Commissioners have other job options; extra moonlighting job doesn't always have to be a lobbyist. There's a wealth of other careers --

The Chair: And I think we've just used a great example of someone who's not a lobbyist; there's attorneys who are not lobbying. They are representing a client on a legal matter. But that would be the same conflict based on what we're talking about. There are vendors. There's all kinds of conflicts.

Let me try to bring some direction to what I'm hearing. There's a little bit of discrepancy on how to interpret the law. So Rob, we are going to give you some more work there and ask if we can get some clarification on far that goes in terms of when you declare a conflict of interest. Is it all because you're representing a client before that city, therefore everything's a conflict? Or is it limited to that issue. And then also, there was another debate that we were having --

Ms. Rorapaugh: The disclosure factor.

The Chair: When to disclose and what to disclose.

Ms. Rorapaugh: How did they disclose?

The Chair: How far down the line does that go? Bob.

Mr. Wolfe: I guess my viewpoint is just that our job is not to rewrite state statute and not to go into people's heads and motives. I just think you make clear-cut distinctions that if you're a County Commissioner, you don't' lobby within Broward County. Go lobby somewhere else if you want to be a lobbyist.

It makes a very clear distinction and I don't think we need to be like, you know, micromanaging elected officials on what's your extracurricular employment activities are, but I think the public expects elected officials to do their job and do certain things but the areas in which there's been controversy and I'm a firm believer that most all elected officials are nice people, they're honest, hardworking people but there's certain instances where there's been media spotlights on individuals who have been lobbying and that's been the controversy and I'm not even saying there were things that went wrong. That's for other people to determine. But I just think that's a clear-cut step to take.

The Chair: The other direction was the verbatim minutes from those discussion relative to that. And Bob, I hear what you're saying, but again, going back to when this issue was initially tabled, it went further than that. Right after, if you're a County Commissioner then you don't lobby down within

this County, this was how it was put. Well then it was what if you're a spouse? And if you're looking at the gift ban and saying you can't receive a gift as an elected official, your spouse shouldn't be able to get the gift. And how do you draw that line and say if you're --

Ms. Rorapaugh: I think you have to include spouses and domestic partners.

Mr. Scherer: I agree with you. And staff. And all the employees too. And I agree with you.

Ms. Rorapaugh. I would too. When you work for certain governmental entities all over this country --

Mr. Scherer: Monica, you're not going to get anymore big Christmas presents from me.

(Laughter)

Ms. Cepero: I'm still waiting for the other ones. He didn't get it.

Ms. Rorapaugh: Senior staff and whatnot are usually, I mean, they have to play by the same rules as the elected official. They are as much a public servant and the trust of the public has to be within their bounds also.

Mr. Scherer: I don't think it's just senior staff, I think it's everybody.

The Chair: We've asked for further clarification on that question.

Mr. Scherer: I know, we don't need to get into that.

Mr. Bakalar: Does that include the spouses?

Mr. Scherer: Yeah, everybody.

The Chair: Well, again, it's easy to throw all of that out but what do we have a right to do. What is our scope and our charge? We've asked for further clarification on that question. Where does it go? What is the scope by Charter?

And as I said to you all, if it's opined when it comes back when it's been opined, then where are we going as a Commission because we certainly have a -- if the majority of the Ethics Commission still feels different, then we have to make a decision on where we go with a legal opinion versus a personal opinion or a second legal opinion.

Mr. Wolfe: Do you have a third page to this? I left mine somewhere. Do you have extra copies?

Ms. Cepero: I think I have an outdated one.

Mr. Wolfe: That's fine, I just want to look at it.

The Chair: Under outside and current employment, in addition to those conflicts or those issues that we've discussed, there's an issue of use of County property or resources.

Mr. Scherer: What's current law on that? They don't have a right to use it, do they, other than for County business?

Mr. Teitler: Right. That's existing.

Mr. Scherer: How do you go beyond you can't do it. Say we really mean it.

Mr. Teitler: Well, I mean, there are existing legal opinions dealing with use of letterhead and business cards so there is a body of authority on that.

Mr. Wolfe: Excuse me, didn't it get brought up more in terms of charitable contributions, use of office time, office equipment, stationary, stuff like that?

The Chair: I think that's how it came up initially but then it was made clear that there's a current rule in place that says you can't do that.

Mr. Wolfe: Except in Miami-Dade. A paragon of virtue.

The Chair: Here. Does anybody recall that remaining an issue? I don't believe so. Rob, did you have any -- are we missing something there? That was addressed, right? There's a rule in place that says you can't do it. You can't use your staff, you can't use your letterhead.

Mr. Teitler: I believe so.

The Chair: I believe the testimony from several elected officials were I give my contacts to the charitable organization. My staff doesn't make the calls, my staff doesn't write the letters.

Mr. Scherer: Well, that's a different issue. What we're talking about now is that you can't do it period. So why do we need to go beyond that? Just enforce it.

The Chair: What is the enforcement mechanism for that? Is that an ethics violation.

Mr. Teitler: If it's under 112.

The Chair: We recognize in early discussion that much of this is recognized in statute. This Commission, regardless of what we craft, has no enforcement authority, so how do we either reference a new rule or simply recognize there's a rule in place --

Mr. Scherer: Do we not have the authority to put in penalties?

Mr. Teitler: I believe we do, but let me just go back to the issue that was just raised to the existing law that was dealing with County property. That would be under misuse of public position. And that's under 112.313. Section 6. And that's where that statute as construed by the Ethics Commission is going to discuss use of County property for private benefit.

Ms. Cepero: Why don't you read it?

Mr. Teitler: Section 6 provides "Misuse of public position. No public officer, employee, or agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be

within his or her trust or perform his or her official duties to secure special privilege, benefit, or exemption from self, herself, or others. This section shall not be construed to conflict with Section 10431."

So there is already a statute relating to that general issue.

The Chair: The next issue is really the -- I'm not quite sure what the parenthesis "while on the dais" is, "use of county time."

Ms. Rorapaugh: Oh, that was in reference to some of the Commissioners had made comments that an unnamed fellow Commissioner does day trading while on the dais while the meetings are going on. Or other business on the dais.

Mr. Wolfe: Are they going to regulate that you can't use your Blackberry on the dais?

Mr. Scherer: Really, I think that's a good thing we ought to do. And I think we ought to also say that they need to concentrate. They got to really do their job and read all their material and then I think we ought to do is have pop quizzes to see how they're doing and once a month we ought to have a big test to see how they're doing on the job.

Ms. Rorapaugh: I think that's where it came from.

Mr. Scherer: I mean we performance the children in school, maybe we ought to do the same thing.

The Chair: Gotcha, gotcha.

Mr. Scherer: Juvenile, right?

Ms. Rorapaugh: And I think the other concern that was expressed by some of the people who testified along the same line that got shoved into this was communications between Commissioners and lobbyists during votes that were not explicit as a communication vote, rather than through telephone calls, e-mails, and text.

Mr. Scherer: Well, we have Sunshine laws that prohibit that. If they do that, they are violating the state law.

Ms. Rorapaugh: Oh, they can communicate right now with the lobbyists.

Mr. Scherer: That's a felony. They are purposely violating the Sunshine law.

Ms. Rorapaugh: No, no, no. If I'm a lobbyist and I want a Commissioner to vote a certain way --

Mr. Scherer: I'm talking about certain Commissioners.

The Chair: No, she's saying that there are Commissioners --

Mr. Scherer: No, I understand that. First of all, it's against the law to violate the Sunshine law and talk among themselves. We don't have to deal with the Sunshine law.

Ms. Rorapaugh: I'm talking about communications during a public meeting that is not public between lobbyists and Commissioners.

Mr. Scherer: I heard that.

Ms. Rorapaugh: Okay.

Mr. Teitler: That was put in paragraph 4 of the working draft; that particular issue.

Ms. Rorapaugh: Okay.

Mr. Wolfe: I don't see how you can stop that.

Mr. Scherer: Thou shalt now misbehave?

Mr. Wolfe: I mean, that's part of lobbying. And it's all covered. If someone wants to find out what's in the e-mails, they can find out. Public Records request.

Ms. Rorapaugh: I agree. But that's where I think this discussion came from.

The Chair: Rob, where did you just reference?

Mr. Teitler: Paragraph 4, dealing with lobbyists, is the issue of contact during Commission meetings is addressed.

Mr. Wolfe: Commissioner thought I was rude, but I don't think you can say you can't talk to people. I mean it's all covered -- I mean --

Mr. Scherer: Well, I mean a lobbyist or a constituent –

Mr. Wolfe: A constituent. You can have your mother in the audience to straighten your tie.

Mr. Scherer: If they got it wrong and some constituent was to come up and say, no, no, no, it's not that way, it's this way. A Commissioner who is interested in that shouldn't be able to do that.

Mr. Bakalar: Well, I think there's a difference in giving public testimony and someone e-mailing; you would never be able to enforce it anyway.

Let's draw the distinction it's different between going up and saying on the mic, after you filled out your little speaker form, that I think you're wrong, versus a lobbyist's texting vote this way, vote that way. So either way, I don't think we can enforce anything, but I just don't want to make a joke of what people think are ethical violations.

Mr. Scherer: It's not a matter of joke, it's a matter of how the thing works. I mean I've been to countless meetings where there's some contested issue and they've gotten the facts wrong and somebody goes to get a Board member's attention to say, wait a minute, you guys are way off base here. You gals are way off base here, it's thus and so. Whether it's a lawyer, a constituent, a lobbyist, or whoever. It's just part of the act of governing. I mean, we can't make it perfect. I mean, there's got to be some common sense to this, doesn't it?

The Chair: We never addressed this, that I recall, in the context of regulating who a County Commissioner could or could not speak to or how they could or could not speak to or how they could or could not communicate with them outside of their colleagues.

Obviously that would be a violation. But if there is a – this meeting is Sunshined. We are under the Sunshine. If a member of this public wanted to bring an issue to my attention now, whether they sent me a text and I got up and spoke with them, it's not illegal. They are sharing something with me about an issue that we're discussing. And I don't know if we ought to get into regulating that.

Mr. Wolfe: Keep in mind that this was a wash list of -- we're pulling them away now.

The Chair: I understand that. I don't think it was ever intended to regulate that. It was an issue that came out that we said yeah, we'll discuss it and totally vet.

Ms. Rorapaugh: By the way, I just got an e-mail that -- from someone who is trying to watch this over the webcast and is having problems. Are we up?

Mr. Scherer: A County Commissioner?

Ms. Rorapaugh: No, it is not.

Mr. Scherer: Can you step off the dais?

Ms. Rorapaugh: Sending a note, "doesn't seem to be on the webcast."

Ms. Cepero: I will double check on that.

The Chair: Sergio, if you can hear me, will you check on that?

Any other issues on -- I think that issue specific to use of county time while on the dais is more with your first comment, not necessarily whether a lobbyist was communicating with a Commissioner. It's not illegal. It's what lobbyists do, it's what constituents do, it's what attorneys do with the elected officials.

Ms. Rorapaugh: Right. No, no, I understand. It was in that same bundle of testimony.

The Chair: Any other discussion on any of those issues relative to outside or concurrent employment?

Ms. Rorapaugh: One thing I would say Chairman, we need to make sure that there is appropriate disclosure. Because I think if the public knows there's transparency, that's the important element to most voters and tax payers.

The Chair: Monica will recap this but we have several things that are coming out of this discussion that we need further information on.

Monica, is it working?

Ms. Cepero: Yes, they are double checking the outside lines but they are watching it right now from the internal.

Ms. Rorapaugh: Yeah, this was someone from the outside.

The Chair: The meeting is scheduled to go to 8:30 p.m. The next issue up is lobbyists. Do you all think we can tackle that in twenty minutes or do you want to table that until the next meeting? Any thoughts? I'll be glad to take it on.

Mr. Collado: There is so much information coming back to us with regards to things you asked for regarding clarification in terms of what was said and the law and what have you, that I think we would be wise to see what we are going to get from our attorney to then approach this issue with some knowledge of what was written and what was said.

The Chair: Any more thoughts on that? You all see where I'm going with the time?

Ms. Rorapaugh: I think that may take more time.

The Chair: Monica, can we use this time to let you do the take away recap? Because we put a lot of things out there. And then I'm just trying not to get into an issue that we may not finish.

Ms. Cepero: Sure. What I've got thus far is a lot of research actually for Mr. Teitler. And Rob, hopefully you've got

some backup minutes, but let me know if I've skipped over something.

What I've got so far as it relates to gifts for you to research the specific scope of the Code of Conduct. There was quite a lot of discussion about chain of command and control as it relates to just the County Commission, or their spouses, significant others, domestic partners, and staff, and immediate staff.

And then there was also we were going to be obviously crafting language as it relates to all of these items that were discussed related to the gifts, including lobbyists banned, as well as for outside others, other than lobbyists and the total and impartial gift ban.

As it relates to voting conflicts, we're omitting that section as it was covered in other state law. As it related to outside employment, I was going to be researching the verbatim excerpts from County Commission discussion on lobbying that. And as it related to their testimony to this body.

Rob was also going to be reviewing the disclosure clarification issues for declaring conflicts; was it related to anything related to that body -- the City of Miramar discussion, or was it specific to a particular issue.

And also I think I skipped over for the outside employment, the lobbying discussion, we'll include some language

in the draft that will come back to you about prohibiting lobbying within the County at all. And that would also include significant others, spouses -- that language as well.

And the -- what was going to be omitted was the County property and resources section under the outside concurrent employment as well as the use of county time, because all that was covered in existing statute.

And I think that's where I stepped out of the room. That is where we left off.

The Chair: Any other thoughts? Did Monica not mention anything that we discussed that we're looking for a response on?

There's not an issue with us adjourning early based on agenda items, is there?

Unidentified Speaker: Chair, may I ask a question? How long has the Commission been meeting?

Ms. Rorapaugh: Since March.

Ms. Cepero: February 27th was the first meeting -- of 2009 -- was the first meeting. This is the seventh meeting, I believe.

The Chair: Any other thoughts or concerns? Sir.

Mr. Wolfe: What was the genesis of that letter to the County Commissioners that was circulated? I was sort of like – took me aback a little bit.

The Chair: Me too.

Mr. Wolfe: When I read it, my thought was I started to put the working documents on the website so everybody could read everything.

The Chair: It was merely a point of order, if you will. The working document that was presented to us was placed in each County Commissioner's box on Friday, at 5:00. With no explanation, no who did it, no cover letter explaining what it was. Obviously when you receive it, it reads like a working document, it reads like a draft.

So phone calls started coming in saying we have a proposed Code of Ethics and nobody knew where it came from, who it came from. So that cover letter was based on phone calls I was receiving. I can't tell you how you got it or who put it there. It wasn't staff at our direction, and nobody knows who did it. It was more of a clarification. Don't know how you got it. It's not a proposed -- we haven't even discussed it, vetted it, all those other issues.

When we are ready to discuss it again, we will. But I can't tell you how it got there.

Mr. Wolfe: Would it make them happier if all this reading material Monica sends us everyday gets posted to the web so they can read it?

The Chair: I don't think any of them asked for more other than we did get a request by the Mayor to testify. She's going to come next meeting?

Ms. Cepero: No, she's going to come, gosh, I think it's in the November meeting.

The Chair: She's going to come speak to us again. But I think what they're looking for -- it's just a document that showed up with no explanation.

Ms. Rorapaugh: That is weird.

The Chair: Well, that's politics. So, that's what we did. We tried to put some context to it. Can't tell you why it's there but here's what it is.

Mr. Scherer: It's public record.

The Chair: It is, yeah.

Ms. Cepero: It was listed as such as well, in the letter.

The Chair: Well, any other questions. Thanks. Can I get a motion to adjourn?

Ms. Rorapaugh: I'll make the motion to adjourn.

Mr. Wolfe: Second.

The Chair: All in favor. So moved. Thank you.

(The meeting was adjourned at 8:14 p.m.)

Verbatim

Broward County Ethics Commission

October 14, 2009

MEMBERS	Commissioner Neal De Jesus, City of Cooper City, Chair
PRESENT:	Commissioner Carl Shechter, City of Pembroke Pines, Vice Chair
	Commissioner Felicia Brunson, City of West Park (Telephonic)
	Washington D. Collado
	Alfreda D. Coward, Esq.
	Kenneth Fink
	Robin Rorapaugh
	William Scherer
	Robert Wolfe, Jr.
ALSO	Monica Cepero, Assistant to the County Administrator
PRESENT:	Robert Teitler, Assistant County Attorney
	Jean Russo, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on October 14, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

(The following is a near verbatim transcript of the meeting.)

THE CHAIR: Good morning, and welcome. Thank you for being here. We're going to call the meeting to order. Can I have roll call, please.

THE REPORTER: Certainly.

(At this time, Roll Call was taken by the real-time reporter.)

THE CHAIR: Again, good morning. We will continue to stay on course as we began our work last meeting in addressing the issues that are on our working draft document. Last meeting we got to our preliminary review of acceptance of gifts and outside concurrent employment, which brings us to Item 3, lobbyists. We will continue to go through one item at a time. Once we complete lobbyists, we will move on to Number Four, Five, et cetera. I would just ask members to again please work within the process so we can be recognized. We have plenty of time. We are not going to move on -- so you won't be slighted until we conclude that item and we will just continue to plug away as we set forth before last meeting. With that being said, I would like to open the floor to any comments on Number 3. Mr. Scherer?

MR. SCHERER: I read recently that the Ethics Commission has asked the Florida Legislature to consider changing the rules regarding lobbyists and lobbyist contact and perception of influence, to make it more obvious and to strengthen the language. I read that, I don't know, yesterday or the day before and would suggest that we get a copy of what they're proposing in Tallahassee so that -- and I understand there is a movement "a foot," to strengthen a lot of the lobbying rules under 112 and others in Tallahassee as a result of the Mendelsohn investigation and things we've been reading in the paper as well as what's going on in Broward and Palm Beach before that. So it seems like they're probably doing the same thing we're doing with a lot more staff and perhaps more insight. So my suggestion would be immediately try to get the materials that they're working with there so that we can see what that is.

MR. TIETLER: Is that from the Ethics Commission?

MR. SCHERER: It was a report from the Ethics Commission urging the Florida Legislature this time to enact changes that would maybe viewed as more strict, dealing with the appearance of impropriety as number 1, some things we've been talking about here and other prohibitions, particularly for legislators and staff and family and immediate family. Same things we've been talking about here. Is anybody aware of that other than me? I think it's just coming out -- the Ethics Commission met this week, I think.

MS. CEPERO: Yes. They met yesterday.

MR. SCHERER: Yesterday. So it came out of that meeting yesterday, but I think they have been working on it before that. I'm just paraphrasing here from what I read, that they get repeated -- repeated issues on certain areas that are grey; same things we're talking about. So that -- my view is that we sure should get that and see what they're doing, and what could possibly happen.

Number 2, it would sure be of assistance to have our Legislative Delegation here to help us by virtue of helping us in Tallahassee to sponsor some legislation that would help along as well. We were looking at more than just, in my judgment it's a multi-prong -- it needs a multi-prong approach. And I think that our charges are more limited. And we have a Legislative Delegation that we can make requests to, to help us with respect to what is going on or what has gone on in Broward County, and urge us to consider getting our Legislative Delegation in here to talk to us and talk to them about perceived changes that they could help make in Tallahassee.

MR. FINK: Well, I think it's a great idea. I think the other part of the issue though, is our charge or our Commission expires in February or March of next year.

THE CHAIR: March of ‘10 we have to have a Draft Code to the County Commission.

MR. FINK: I think if we attack it from the Legislative approach and wait to see what they're going to do to back up or strengthen whatever we

do, that's going to become an effective way after our Commission expires. And I think the public is looking to us frankly, now, especially in light of recent events, to come up with something substantial in order to make changes; and if the Legislature could back that up beyond that -- because that process will take far longer. (Inaudible.) That's a concern that I have timing-wise.

THE CHAIR: I don't know that Mr. Scherer was asking that we hold off on our work for that, but just to begin to dialog with them and have them look at some legislation to support what we're going to do. I agree; we're not on the same timeline in terms of their Session, our deadline.

MR. WOLFE: We're in concurrence with – I deal with the Delegation quite a bit – they're just now setting up their workshops prior to the interim committee, where they meet with the League of Cities that you are all involved with, the Constitutional Officers; and in various aspects, what their dealing with -- I think it's very easy to give us Sandy Harris and (inaudible) chairman and include us in one of those -- because I certainly -- I got the schedule the other day of the hearings and there is a lot of flexibility with those -- and it might be something, I don't know, but it might be something where they might want to look at the local Bill, which they do need to do at public hearing prior to the Legislative Session start, which would have to be heard in the next month or two if there was something you want to reinforce what our mission is and maybe that's something Mr. Scherer could look at.

MR. SCHERER: That's precisely the point. We have limited authority and jurisdiction to do certain things; for instance, in my view, whatever we ask for the Commission ought to apply to staff, senior staff, junior staff, all staff. We have a legal opinion that our charge does not give us the power to do that. Certainly our Legislation Delegation and a local Bill could follow up and say that whatever the Ethics Commission passes, and the voters pass in Broward County applies to all levels of Broward County staff. And that's one thing. I'm a thinking of certain other things as well. Now you know if a local Bill is supported by the local Delegation and it applies to Broward County only it will pass. So I think that's something

that we can -- unless I'm out of school here, Rob, I'm not sure. It just seems that we need more than a single prong approach. I'm trying to look at how we can really address the issues that are pretty pertinent to our day, and it seems like we need -- one size doesn't quite fit all. And that's why I'm suggesting the Legislation Delegation. I'm also suggesting the Legislative Delegation could add penalties that we don't have the power to add; such as debarment, criminal issues, referral to the State Attorney rather than to the Ethic Commission and or you know, certain things that we cannot do. And you know the Legislature has a lot more power to affect things then we do, this Commission. If we could get the Legislative Delegation on board with this – and I don't know how they would feel about it, they may not want to touch it, but it seems we ought to reach out to them as soon as possible, get them engaged with us and help us.

THE CHAIR: I don't -- is there any opposition before I summarize? I want to get us back on track. Does anybody have any opposition to any of the recommendations? I believe it's relevant. It's probably a group we missed when we looked at who should testify before us. As Mr. Scherer just concluded, I'm not even sure they would be interested but I think we need to reach out and make that recommendation and then look for the most appropriate time to bring them in. I would recommend that at this point we continue on the course set forth in terms of the next couple of meetings to get through these items, so at least we have our first Draft, our first-walk-through of this working document behind us. And then we begin to look at how they can help in those different areas, once we have something that has more context or a framework. Does anybody have any objections to that? So we might be looking at two or three meetings (inaudible) reach out immediately and try to schedule them before us, but before we start taking up an hour, hour and one-half of our meeting, that we continue to plug through these things.

MR. WOLFE: I disagree. I think we need to communicate to them immediately, because the timeframe for public hearings for local Bills are next month. We also have the unique opportunity based on the fact that I think you will have (inaudible) Delegation behind us, plus we have unique

opportunities, due to the fact that we have leadership in both the Senate and the House within our Delegation (inaudible) and House leadership (inaudible) and I haven't talked about it but -- (inaudible.) I think it's probably appropriate to talk to Sandy Harris.

MR. SCHERER: If we needed to call special meetings, you know, in the interim on this, I think it would be appropriate. We have some momentum here, and we ought to use it.

THE CHAIR: What is that deadline?

MR. WOLFE: I don't have my file.

THE CHAIR: Next month some time?

MR. WOLFE: Yes. It's the meeting -- the hearing -- I think the first local Bill hearing is in November, I believe. The interim committee hearings basically start in January but you have to have public hearings done first but they can do -- I have to get legal counsel -- but they could obviously do a shell Bill or a local Bill, at least get the public hearing portion of that done and discuss it with the Delegation.

(Ms. Coward entered the room.)

THE CHAIR: Well, why don't we do this, the next time we meet isn't until November 11th and even if they're willing to come before us then that's pressing it if their deadline is in November.

MR. WOLFE: I would have to double check.

THE CHAIR: So why don't we reach out to Sandy Harris, we will see if she could find out. Based on that, we'll work with her office on the deadline that would be appropriate to get them before us, the entire Delegation or however is interested in testifying before us.

MR. SCHERER: Could we couch it in the terms that we're interested in having our Legislative Delegation consider sponsoring a local Bill or Bills to help us implement our charges to -- our charge to provide a

comprehensive Code of Ethics for County Commissioners and that we think in conjunction with local Legislation we can accomplish far more because we're dealing with jurisdictional stumbling blocks and perhaps other structural stumbling blocks and together we can really do a better project as to our amended Charter and as to a local Bill. Essentially the Legislature, the local Delegation could pass a local Bill with every single thing we want to have done and it would be a State law rather than a Municipal Ordinance, if they were inclined to do that. I'm not suggesting we're trying to dodge, I'm just suggesting we can work together, we can do something better then what we can do individually.

THE CHAIR: I am good with that, as long as we keep plugging forward with our charge and move forth. I'm preparing to present something in case we're shot down completely, worst case scenario. So we'll reach out and ask them if they'll work with us and see how quickly we can get them before us. Now, with that deadline of November it's likely we're going to convene again before, so just look at your calendars.

MR. WOLFE: I will be happy to help the Chair with anything.

THE CHAIR: Thank you.

MR. SCHERER: We might – can frame a motion here to go ahead and get the Legislative Delegation and ask them to try to arrange hearings on Ethics -- rewrite of Broward County's Code ---so that we don't have to wait, we can go ahead and ask them so they can set up a hearing. All they have to do is pass it to get a shell Bill that we can fill in. It's easier to get a local Bill passed than it is to put one on if you haven't had the hearing, and get them to waive the requirements, in my experience. So if the majority of us are agreed to ask them to get involved and have some hearings on it to help implement the Ethics Code, we ought to move that now and we can put the request forward and they can start working and then we might alleviate an emergency meeting or an additional meeting like that.

THE CHAIR: I'm inclined to talk to them first and get them before us before we make any formal requests, to find out what their position is and

where they can help us and where they can't help us. But I'll open the floor for discussion.

MS. COWARD: I concur with the Chair's position.

MR. COLLADO: So do I, to see what was the result of the meeting that they had yesterday.

MS. RORAPAUGH: The Florida Ethics Commission had a meeting yesterday.

MR. SCHERER: It was the Ethics Commission yesterday, it was not our local Delegation.

MS. RORAPAUGH: I think that Mr. Scherer brings up a good point, though, if we can ask them to at least put together a shell Bill and begin noticing for hearings, it gets them started, it also makes it very difficult for them to decide that we don't want to play in this game and there will be some members in the Delegation who will not want to be involved in this in any way, shape or form.

MR. WOLFE: I think just immediately we need to reach out and talk to our Delegation. I said I will assist the Chair in that manner and I will certainly talk to my Senator and my State Representative and see what they think about it but I think you need to move at your convenience. If we need to meet again the next week or so with them or two weeks down the road, we should do it, but keep doing what we're doing.

THE CHAIR: I will contact Sandy Harris today after this meeting. In fact, I'll stop in and see if she's available when I leave, see if she can reach out to the Broward Delegation and based on the deadline for submittal of Bills, set up a time for us to get together and we can probably do it right here depending on how many of them show up and see how they might be willing to work with us in providing some Legislation to support this.

MR. WOLFE: We might not need a meeting of the whole Delegation, but might just be the Chairman and --

THE CHAIR: Whoever they want to send. And like Robin said, they might not all want to be here.

MS. RORAPAUGH: But what I think -- what I was trying to express was, I don't believe that we should make it their choice. We need to make this as part of what their Call is going into next Legislative Session. It's clear that there are problems in this County, it's clear that our ability to address those problems are limited because of jurisdictional problems et cetera, et cetera. This is something that the Delegation should be looking at and if we can if we can make the request more officially it may give an opportunity for some reformed-minded legislators to “jump on that ball.” I think if we do it like a, would you like to us help us; that may not get us the results that we want. I haven't talk to any legislators about this but I know some of our Delegation to --could possibly be as embroiled as some of our County officials are embroiled in what’s going on right now. So there will be many, many, different viewpoints on how involved the Delegation wants to be --

THE CHAIR: I'll support that, as I said, after we speak to them. I'm not sure how we stand now in terms of majority, if you all would like to call the question to decide whether we bring them in first before we ask them officially or just ask them officially right “off the bat,” As I said, I'm not opposed to considering it . I would just rather speak to them first before we make a decision to ask them officially to support. Any other feelings?

MR. FINK: I guess from a logic standpoint – and I’m listening to exactly what you just said; does it really in the bottom line make a difference if we ask them officially or unofficially, and are they going to have any impact on a timely basis of what we need to do; they can turn around once we drafted something and put it before the Commission and then it goes to the voters, they can either support what we have done and extend it beyond that or they can reject what we have done or put it -- something that is counterproductive productive to what we have done. But the reality is whether they start the process or not now, it's not going to happen in the timely matter that we have to get it done, so whether we do it officially or

unofficially, to me, is irrelevant. I don't think there is any bearing on which way we do it and I think the reality is if we do a good job with what we're doing, which I think we're going to do, they're either going to add that into their legislative proposals and then either add further restrictions or encumbrances or they're going to do something that would delete some of the things that we have done. And that is really the way it's going to go. And whether we bring them in now, bring them in later, officially or not officially, I don't see it being relevant.

THE CHAIR: I agree with – go ahead, Mr. Scherer.

MR. SCHERER: Kenneth, I think that the process isn't working that way. I did not intend to say we're going to send them our product and ask them to enact it into State law. I'm asking that they work with us and they have staff, they have a lawyer or lawyers, they have the ability to have funds, they have more than we have to go forward and look where we are -- don't have jurisdiction, and can supplement or augment where we are going and maybe even take it farther. And they can go quickly and local Bills go very quickly because they have the hearing and then they fill in -- and I think there is going to be tremendous pressure in the Florida Legislature this year for them to do something and of course we're going to be ahead of the game. So I did not intend that we say, here's what we're doing, go pass it as a State law, that's not what I said. Because they can go farther then we can in some areas, like I mentioned, the staff, and I can think of other areas as well. So I think we ought to get the ball rolling, whatever you say, call them first and tell them we're going to get the ball rolling, but I think we should make a motion and a formal request for the Legislation Delegation to get involved with us to help us and I would like that to be a motion.

MR. WOLFE: Second.

THE CHAIR: Clarify that motion for me please, Mr. Scherer.

MR. SCHERER: That we move to request that the Legislative Delegation get involved with our Ethics Commission to assist us in

formulating an Ethics Code for Broward County that they include statutory changes that go beyond our jurisdiction and or within the jurisdiction of the Legislature.

MR. WOLFE: Second.

THE CHAIR: Motion and second on the floor; any discussion?

MR. SHECHTER: What we're talking about – maybe I'm missing something here, but we're talking about for Broward County. What we are charged with is not Broward County. We're charged with creating an Ethics Code for the Broward Commission. And that was authorized by the voters. I think we can do anything we choose to do. It's got nothing to do with -- I don't care what the Legislative Branch does; they can adopt what we do but they can't reject what we do. The voters asked us to prepare this Code, and whatever we put into that Code the Broward County Commission can either accept or reject. I think it comes down to simplicity, that's all we have to do, that's our charge. If the Legislature is going to expand on that, that's fine. If they want to adopt what we have done and say, yes, we like this -- let's assume that they say, we don't like what you did; can they change it, no.

MR. SCHERER: No – well, it depends. State law can preempt for sure. And that very well may happen, by the way, they may say, we need a Statewide Ethics Code to apply to everybody --

MR. SCHECHTER: That's fine –

THE CHAIR: Wait. We have people in queue waiting to speak, so let's let Commission Schechter finish, and we'll go to Ms. Coward.

MR. SHECHTER: Well, my only thought is that -- I don't have any problem with getting the Legislative Delegation involved and meeting with them first because I think we ought to know whether or not they're willing to get involved. What is the point of making an official request if they're not interested? Let's – we can have a special meeting, ask them to come down, talk to them, if they say great idea, let's move forward together, let's

do it. But our charge is clear; create an Ethics Code for the Broward County Commission. Now we're talking about going further afield, we're talking about including staff -- and maybe that is a great idea -- but that is not what we were charged with, and maybe the Legislature can do that, we can't unless they agree to do it so --

MS. COWARD: I was just going to reiterate something I said, add something else. I have no objection with us speaking to them, but I think we should make a request of them first, prior to us asking them formally to do something. The idea of trying to force their hand and not give them options, to me, is not appropriate in an instance that we don't even have any power over -- that's already outside of our scope; so for us to make a request, in my mind, is basically us extending ourselves further then what we're what entitled – what we're supposed to be doing, but to try to force someone's hand on something that we don't really have the authority to do so, is not in the spirit of collaboration either. I think it's best for us to have them come to the table so we can collaborate together. I feel if we actually try to force them we're less likely to accomplish our goals. So I suggest – I urge that we do not approve the motion as passing; instead do as the Chair initially suggested doing, speaking with them informally first.

THE CHAIR: Any other comments before we call the question?

MR. WOLFE: Just that I don't think we're forcing them to do anything, just making an official request on the record. So I quite frankly think with the calendar coming up I think we're just exploring what our options might be legally in terms of a local Bill versus not -- I don't even know to what extent we might use it. I think time for talking we need to (inaudible.)

THE CHAIR: I hear everybody's comments and although we disagree on how to go about it, I don't think we have anybody opposed to speaking with them. My position as far as extending an invite still stands. So we have a motion on the floor and a second; all in favor signify by saying aye. All Opposed?

(The vote failed 5-4, with Mr. Collado, Ms. Coward, Mr. Fink, Mr. Scherer and the Chair voting no.)

THE REPORTER: I'm sorry, who were the no's?

THE CHAIR: Who were the aye's?

MR. COLLADO: I'm sorry, I meant to raise – no.

MR. FINK: A point of clarification; is the motion not to just go ahead and extend an invitation to them to talk to us?

MR. SCHERER: To extend an invitation to talk to us concerning the possibility of a local Bill.

(Inaudible.)

MR. FINK: So –

MR. WOLFE: That wasn't the motion.

THE CHAIR: My understanding of the motion was to extend an invitation to talk to us about supporting a local Bill that has to do with what we're passing and how they're going to support it. My position was simply, let's invite them to talk to them and after we talk to them we will decide how we want to invite them to be involved or not to be involved. So it's two different things.

MS. COWARD: Clarification. I understood the motion to be basically invite them – extend the invitation to them now before speaking to them versus the contrary --

MR. SCHERER: Correct.

THE CHAIR: Now, by a show of hands, since we don't know where we're at, I'm going to call this question, we're going to close this issue, and we're going to get back on our agenda of dealing with lobbyists. All in favor of the motion say aye. All opposed?

MS. COWARD: Nay.

THE CHAIR: It was defeated. Thank you, Mr. Scherer. We're going to go back to lobbyists, Number 4. That was an important discussion, it really was. All kidding aside, I think we missed speaking to them, and we need to get them here. So I will move forth with extending that invitation to Ms. Harris.

Number 3, lobbyists. The comments that came up on our working draft was limiting exposure or contact, disclosure contact during Commission meetings and registration. Any thoughts or comments on those issues?

MR. WOLFE: There should be an update on the Ordinance that was passed yesterday at the County Commission regarding lobbying.

THE CHAIR: Staff?

MS. CEPERO: I can get a copy.

MR. WOLFE: I have a copy with me.

THE CHAIR: Would you update us, Mr. Wolfe?

MR. WOLFE: Yesterday the Commission Action, they amended the Broward County Lobbyist Registration Act; basically to define what a lobbyist is in providing for lobbyist registration; disclosure of clients, fees -- through the County Administrator's Office, and a lobbying fee, which is to administer the County Administrator's Office – including fines for not timely filing and I guess the fiscal analysis, the fees were going to be for the maintaining of the records and providing transparency for government lobbying. There was nothing in the Ordinance that disclosed transparency as far as a website, it was basically paper records in the County Administrator's Office. The other interesting thing during debate -- I guess there was previous discussion on maybe these monies be used on ethics branding and all that, that was dismissed by the County Commission, put just into the County Administrator's budget, which might be a source of income maybe to defray some of these (inaudible) like ethics training in the future like we were talking about, and maybe --

MS. CEPERO: I have a comment on that, if I may. That basically is the codification of our existing practice. So it wasn't necessarily a change. It's just kind of putting it in place officially, and those fees, like you said, to help defray the administrative cost of actually inputting, keeping track of that log, if you will.

THE CHAIR: Did that replace an existing Ordinance?

MS. CEPERO: I don't know. Did we have an existing – I don't think we had -- MR. TIETLER: There already exists, Article 13, Lobbying Activities –

MS. CEPERO: Registration –

MR. TIETLER: Registration exists within this as well. There is a registration provision under 1-262, and what occurred yesterday, where it was a modification in terms of definitions and in terms of registration under 1-262, there were – there wasn't a sentence of clarification dealing with the use of registration fees, but it was really an amendment to the existing -- to the Lobbying Registration Act.

THE CHAIR: Could you get us copies of that, please?

MR. TIETLE: I believe this has been previously provided among --

MS. CEPERO: The old one, not the new one.

MR. TIETLER: The new one might have as well.

MR. FINK: What was the change in the definition of a lobbyist?

MS. RORAPAUGH: Mr. Wolfe, could you read what a lobbyist is.

MR. WOLFE: Sure. It was actually some very good changes on there. Lobbyist means any individuals who engages in lobbying is defined in Subsection 1-261 (B) regardless of whether he or she received any compensation for such lobbying, any individual who in his or her individual capacity communicates with a County Commissioner in a decision making body under the jurisdiction of Broward County; Commissioners or any

County employee for the purpose of self representation, without compensation to express support of or opposition to it (inaudible) shall be required to register as a lobbyist. Changes of the past code were additionally -- lobbyists does not include a public officer, public employee, (inaudible) public appointee when acting in his or her official capacity any employee or officer of a homeowner's association, condominium association, or neighborhood association when addressing his or her capacity (inaudible) of such association, an issue impacting the association or its members or an employee of a non-profit public interest entity, e.g., (inaudible) NAACP, ACLU, when addressing an issue impacting a constituent of that entity. And there was discussion over that a little bit yesterday at the meeting.

THE CHAIR: Mr. Tietler, could you get us a copy of the new Code?

MS. CEPERO: I'm going to have it sent in.

THE CHAIR: Any other comments in reference to lobbyists? Obviously those were interesting updates that we need to look into. Mr. Fink?

MR. FINK: Monica had been most helpful in providing for us a copy of 90 days worth of logs from simply Commissioners offices, the handwritten logs. I'm pretty good at deciphering handwriting but I have to tell you, one matter, shape or form or another, we need to come down on having these logs spelled out properly so we know who it is that's there, who they're seeing and what the purpose of the visit is. Because one of the things I was going to try to determine from those logs was just how much influence is being entertained or purported to be entertained by the lobbyists; how much time are they spending with the Commissioners and on which subjects, and there is no way to decipher from the handwritten logs. You can look at Ron Books name, you can look at other persons names and there's no way to tell, really, sometimes who he is seeing and on what topic. And I think we need to clean that up under the portion that we take as transparency. And somehow either the person who is administering the log in the Commission office, needs to convert it into a document on the

computer that can be read properly or she has to inquire the lobbyists to fill these things out properly.

MR. SCHERER: I looked through them too. My handwriting is clear.

MR. FINK: Yours is.

MR. SCHERER: I was there once I think, right, if you can tell that. But it is not – we talked about that before, there's no reason that the woman sitting behind the desk can't log everybody in on the computer and have them sign the thing. That is just basic administration, the person sits there anyway. So that wouldn't take very much in my judgment, so that you could read the print. I did like to look at it. I couldn't agree more. We talked about that before. It's kind of an administrative, but if the registration needs anything we ought to -- that's a joke -- but I also have -- I think we should also include in the lobbyist portion that the lobbyist and the Commissioners contacts, whether it's on the job or off the job, socially, golf courses, vacations or whatever, avoids the hint of impropriety. Same thing with that the judges live by, every single day, throughout the whole United States, and there's a body of law and what appears to be improper and what avoids the hint of impropriety. We have case law galore in Florida and in every other state, and federal jurisdictions, that we ought to consider putting the Commissioner and the lobbyist – the hint of impropriety in any of their dealings in our Code, we ought to consider that. Those few little words. And we might even put as defined under case law.

THE CHAIR: Let me back up to Mr. Fink real quick before we address that issue. Is there any other thoughts on the lobbying registration process. Mr. Wolfe?

MR. WOLFE: It sort of dawned on me when I was watching the Commission yesterday. If you're charging a fee per lobbyist, you know, in my office, we have an I. D. and I have a building card; why don't they issue them a card, a registration, and go into the Commission, swipe through a reader and then you know at the time, you know it's Bob Wolfe walking into the Commission to meet Commissioner X, it's logged in the computer.

MR. FINK: Except -- I think that is fine but we need to get to the next step which is for what purpose are they there.

MR. COLLADO: The nature of the business.

MR. FINK: We need to know the nature of the business and the card swipe won't tell us that. Card swipe will tell us who it is, but it needs to be added as to what is the purpose of their visit.

MR. SCHECHTER: And the length of time.

THE CHAIR: Hold on a second. I need you to be recognized, because we have people that raise their hand and wait and then they get overridden. Robin?

MS. RORAPAUGH: I think another important part beside the registration of lobbyists and when they are signing in is also disclosure from the Commissioners, of whom they have spoken to and visited with before votes; whether it's on Selection Committees or actual votes on the Commission, because in essence a Commissioner may run into lobbyist A at the grocery store and get "button-holed," that is a conversation that needs to be reported and recorded.

MR. FINK: Yesterday on NPR on (inaudible) they interviewed Commissioner Sosa from Miami-Dade, Robert Myers who testified in front of us, and Joseph Centorino, whose the Assistant Miami-Dade State Attorney – I don't know if anyone caught it, but me. But a couple of things that they discussed -- and out of ignorance I don't know if our Code prohibits these things or even addresses them -- but one of the things that they have done is they banned contingency or success fees from being paid to lobbyists; so that a lobbyist re-numeration is only derived if he is successful in his lobbying. I don't know if that's in our Code or not. Robert, do you know if we have that?

THE CHAIR: Hold on one second. Mr. Fink, I want to get done with the registration issue. If we can finish that registration process we will move onto the next issues. Ms. Coward?

MS. COWARD: Yes. I was going to say that I agree with what you're suggesting about the registration about any enhancement, so that we could read it. I even agree with disclosure by the Commissioners. I just have a question as it relates to our power; how much control administratively do we have over the lobbyists, including the registration, or whatever else we may envision, where this conversation is going? Do we have the power to define what lobbyists can and cannot do, or are we limited to controlling the Commissioner, making the Commissioner report their contact?

THE CHAIR: I believe that -- Mr. Tietler, correct me if I'm wrong. I believe that we can recommend any process related to those County Commissioners and if we want to say that lobbyists must register this way and that registration will be kept in a computer by the main receptionist and there will be one log, however we want to define that, I believe we have the authority to do that within that Code.

MR. TIETLER: I would agree with that.

THE CHAIR: So my question to this Commission is do you all want to define a process in that Code or do you want to say there shall be a process and what that process should look like? We all agree. We discussed this, you go to a hospital they scan you in, they scan you out with your driver's license, you go to a school they scan you in, they scan you out with your driver's license; it's not that difficult if it's kept. The paperwork doesn't work. That's obvious.

MR. COLLADO: I would just say that in definition of the process, specify the nature of business and the time and how many times, you know, just in a legible format, whether it's administratively or a computer or clearly written and making sure that someone who sits at the front desk sees that it's clearly written. As part of that process I think that's what we're really looking for. I think that is how I see it; define the process and making sure that this is clearly stated in the writing format whether it's in computer or in writing.

THE CHAIR: Can I make this suggestion? Based on comments that have been made that we ask staff to draft a procedure based on the comments that we discussed and submit that to us for approval, and inclusion into our Code?

MR. FINK: I would like to make that motion.

MR. WOLFE: I agree with that. I think we would be interested in the ordinance that was tweaked yesterday at the Board of County Commissioners. It doesn't have a lot of processes outlined for lobbyist registration but I thought there were a lot of loop holes in it. And agree with you of moving ahead that way but I think that this might provide a lot of background (inaudible) tighten them up – obviously if we enact ethics reforms, there is going to be some cost associated with ethics classes or whatever – that might be a revenue source, lobbying fees. But also there is some holes in it, like lobbying is (inaudible) without compensation is not required to pay a registration fee, or then lobbyist who is required to promptly amend (inaudible) registrations (inaudible) what is promptly? So there is probably some things we need to refine a little stricter than the County Commission did. But I think this is a good thing once we share this document with everything (inaudible)

THE CHAIR: We'll be coming back to all these issues next time around. Mr. Fink?

MR. FINK: I make a motion that we direct staff to prepare a definitive procedure that we would like to see and use that as a working frame of reference. One of the things -- that is it. I'll stop there.

COWARD: Second.

THE CHAIR: Second by Mr. Coward. I'll open the floor for discussion. Robin?

MS. RORAPAUGH: I would like to add in our instructions to staff, our request to staff, that we outline -- that we would like this to be an easily accessible public record that is also on the internet and again define the

times of when these registrations or reports would be due. I mean, up until this year, if you wanted to know who was a lobbyist in Broward County you had to physically drive to this building and go and speak to a person, that even though that was a public document, that is not what citizens need. That is not what County Commissioners need; they need an easily transparent and easily access data base so that when a vote is coming up, citizens are assured that Commissioners are making the best decision based on issue. Part of our task here is to also provide for office holders to build confidence again. So it should be accessible, it should be computerized. It should be accessible through the County website.

MR. SHECHTER: My question is I think a basic one. Are we first validating the whole concept of lobbyists in government by having all this registration, and all the rest of that, we're saying, yeah, it's okay, lobbyists are a good thing and money drives the game.

MR. FINK: Pay to play.

MR. SHECHTER: That's what lobbyists do. They're paid advocates. So by creating all of these rules and procedures, and what have you; what you're saying in effect is, go at it guys, keep doing what you're doing, just find a way to comply with what we're telling you to do and then go ahead and influence Legislation. So my question is a very basic one. Should we attack the – consider, not attack -- that is a bad word -- but should we consider the whole concept of lobbying in government and maybe start from the very basic concept of should we allow lobbying at all? Maybe that's a little bit utopian, but I think we all know whether we're public officials or employees or whatever, that lobbying is very much a part of government, and should it be. What Bob read before -- yesterday I was lobbied by group of homeowners who are very upset that a major corporation wants to put a roadway right in front of where their homes are; and I considered that the public's right to speak to a public official but I also was lobbied by -- not on this issue on a different issue -- by lobbyists who came to my office and talked to me about something that is on the agenda.

THE CHAIR: If I could interrupt, I want to get back to the process of registration for the lobbyists. We have a motion on the floor and a second; if you can tie your comments to that registration process.

MR. SHECHTER: With all due respect, Mr. Chairman, the topic under consideration is lobbyists; and my point is before we get to registration should we consider lobbyists generally, and if we decide lobbying, fine -- and something that we want to continue then go to the registration (inaudible)

THE CHAIR: I agree, but right now there is a motion and a second that pertain to recommending a specific registration process for lobbyists. Are there any other comments on that issue?

MR. TIETLER: Just for a matter of clarification, is the issue on procedures to account for visitation by registered lobbyists? It's not actually the registration of the lobbyists; it's to account for –

MS. RORAPAUGH: The interaction.

THE CHAIR: How they check in. Replacing the paper trail with a computerized system that is legible and accountable as we discussed and Monica or you will prepare the language for us to review and approve.

MR. SCHERER: Is it appropriate to discuss penalties for failure to register at this point ?

MR. WOLFE: The Ordinance that was adopted yesterday has penalty – finally penalties for registration in it. That is why I suggested staff utilize this Ordinance and incorporate into our documents because I think we want to take this and add some other stuff.

THE CHAIR: I think the answer is yes.

MR. SCHERER: It's appropriate to talk about penalties at this point?

THE CHAIR: Not for the log in, right? For the registration, for failure to register.

MR. WOLFE: That is already in there; however, I think we can look at --

MR. SCHERER: Already in there meaning they passed something yesterday?

MS. CEPERO: Yes.

MR. FINK: Isn't there a difference between registration and lobbying?

MS. CEPERO: It's --

MR. FINK: Aren't we now talking about log in more than registration?

MR. COLLADO: That is what I was thinking.

THE CHAIR: That's what I was trying to bring us back to. Let's get the log in. I'm calling the vote. All in favor of a process for log in of lobbyist at the County Administrator's Office signify by saying, aye. All opposed? Motion passes.

MR. FINK: Can I add one thing in terms of what I would like them to include?

THE CHAIR: Yes.

MR. FINK: I have a funny feeling now, whatever lobbyist it is, we don't need to name one, but will they register to see one Commissioner -- Bob, probably could tell me whether I'm off base or not, but they could walk down the hall and see multiple Commissioners having only registered once?

MS. CEPERO: If they are there to see multiple people they are supposed to come out and sign again.

THE CHAIR: Then that language that you draft please include that protection. Mr. Scherer?

MR. SCHERER: I also saw that there would be a lobbyist that lobbies for a certain entity that they register as a registered lobbyist for XYZ company and then XYZ company has 10 issues and you don't know what issue they're in there lobbying at that particular time because they don't define it but the company that they're lobbying for, that they registered for, that that company has multiple issues and you don't know what issue is there; so that in terms of the log in, my judgment is it ought to be who the client is and what the issue is, it ought to be, you know, completely transparent there and --

THE CHAIR: I think that was articulated in the direction for staff to come back with language.

MR. SCHERER: I hope so, because you can look at the sign in sheets and see that is exactly the situation.

MS. RORAPAUGH: At some point – this may not be the appropriate time – but I do think we have to have a cross reference, so to speak, so that a Commissioner has had an opportunity to say who has lobbied them on a specific issue or on a specific time period. They are button-holed, talked to, called, text, run into in the street all the time, it's a small town in that way and we need to give them an opportunity to let the public know who's talking to them who may not have walked through the County Commission doors .

THE CHAIR: Robin, that's a good segue way and one of the issues under lobbyists and that's disclosure. Do you have any other thoughts on that before we go into it?

MS. RORAPAUGH: No. I think as we talk through it -- but mindful there is a couple of things and I think the more disclosure the better, but we need to be thinking in ways of systems that could easily translate a calendar into that disclosure, gives them an opportunity to define the difference between a casual contact and an official lobbying. We have more -- Mr. Scherer, you can probably speak to this, although I know this has never been your case – there are many, many, people who are not

registered lobbyists because they're attorneys and they're representing their clients in a different context but they are still lobbying issues in front of the County Commissioners and County Commissioners, as they sit on Selection Committees or are taking votes from the dais, have been contacted by people that may not be captured in the registration and sign in process and I think there should be an opportunity for County Commissioners to say, these are other folks I have heard from. The problem is going to be they do not have huge staffs. So how do we define what that is? I don't have any --

THE CHAIR: Mr. Wolfe, was that definition that was changed in the new Ordinance yesterday, did that address attorneys?

MR. WOLFE: Let's see.

THE CHAIR: Rob?

MR. TIETLER: In terms of definition of a lobbyist, it really just fine-tuned and eliminated the word, "person," and replaced it with "individual." And I think it has been construed as being an attorney included within lobbyists.

MS. CEPERO: It's on line 13 of page 2 of the attachment that you have in front of you.

MR. WOLFE: I think you guys were defining sort of like compensation.

MR. TIETLER: I think one of the issues -- and the one speaker that came up on this issue was arguing that individuals were going to be onerous because it was going to be involved with individual attorneys within the law firm that was involved in lobbying. I think by implication it does involve attorney.

MR. WOLFE: I forgot the law firm.

THE CHAIR: Mr. Scherer, I think you raise a good point and Robin as to you -- probably the smallest percentage of lobbying occurs in the office.

So that registration process that we're looking for is going to fine tune who was there and when they were there and why they were there. I don't know the monitoring process to capture -- they said they were here for X but when they got in there they talked about Y and Z as well. Short of require a monitor to be present for the session, I just don't know how we're going to do that.

MR. FINK: I firmly believe you never pass an unenforceable Ordinance.

THE CHAIR: So we're taking a step in the right direction but disclosure is that next piece because there is other areas to lobby; whether that be in the hallways of this building or a restaurant or whatever it is. Any other thoughts on disclosure?

MR. COLLADO: What is the -- not being familiar with the laws, what is the Sunshine, the Sunshine laws with regards to a Commissioner discussing issues whether casually or formally in the supermarket or text message? What --

THE CHAIR: You can't discuss --

MR. COLLADO: Who is completely prohibited?

THE CHAIR: No. You're okay. It's allowable.

MR. TIETLER: You mean in terms of speaking to a lobbyists at a grocery store?

MR. COLLADO: Lobbyist or "Joe Public."

MR. TIETLER: That is fine. They just can't speak with another member of the same Commission, the same collegial body.

MR. FINK: You and I can't talk. We can talk about baseball but we can't talk about issues that come before us.

MR. COLLADO: Okay. I guess the follow up question to that, what would we be looking to pursue with the disclosure specifics in this regard?

THE CHAIR: What lobbyist spoke to what elected official about what issue and when. If I'm going to vote on an issue that the comments are that I should say that Mr. Mayo spoke with me about that issue on this day in reference to this issue that I'm going to vote on if Mr. Mayor was a lobbyist.

MR. COLLADO: If I understand correctly that would include formal meetings logged in, in casual conversations in the supermarket.

THE CHAIR: Doesn't matter if it's a lobbyist that's lobbying you by definition.

MR. COLLADO: Okay.

MS. COWARD: I'm supportive (inaudible) as it relates to disclosure. Specifically if there's an issue that they're going to be voting upon, I think we should write something that requires the Commissioners to disclose the lobbying they've done, again outside, anywhere, golf course, grocery store, any place. I think we should put something in that requires to disclose that. On the contrary, I don't think the disclosure should encompass any contact; for instance if a Commissioner goes to a bar function for instance, of lawyers, there may be a whole room full of lawyers or lobbyists in the room, I don't think the Commissioner should be go back and be been required to remember every lawyer in the room and disclose it but every lawyer that spoke to them on any issue relating -- that was defined -- then I think it should be disclosed.

MS. RORAPAUGH: I think one other thing. This may be under procurement rather than here, but as votes come before the Commission possibly at a quick way of disclosure is to disclose any campaign contributions that have been received in the prior election cycle or the current election cycle from a registered lobbyist on that issue or their clients and their clients families as it comes before the Commission. So if I'm voting on project A and have received $20,000 from a lobbyist and the contractors and the subcontractors that I'm about to vote for or against there is a way for the public to discern that.

MR. FINK: Isn't there now? Are you telling me there is no methodology in place to disclose campaign--

MS. RORAPAUGH: There is campaign contribution disclosure but it's not tied in anything specific. It would be what -- the press – the fifth estate does from time to time et cetera, et cetera, tying together all of that. And I'm not saying -- campaign contributions are about good government – that's what they are made in. I make campaign contributions when I support candidates for good government but there will come a time in -- that has been an area of great discussion out in the public that they believe votes are paid for; well we can't stop that and I'm not saying it's happening but there can be a better disclosure mechanism that when I'm a vendor hoping for a vote, it will be disclosed whom I have given money to by either the Commissioner who took the money or by the builder, lobbyist whatever, who is looking for the contract.

MR. COLLADO: And I heard in there, Robin, the time frame; should we be discussing time frame in terms of contributing to the last campaign or this campaign or how many years back; should that be in there? Do we recognize --

MS. RORAPAUGH: I would think we would put a moratorium on time, absolutely.

MR. FINK: I'm not sure I understand you correctly because if you're telling me they have to disclose campaign contributions and they have to register as a lobbyist; is it incumbent upon us to pass an Ordinance that says somehow we have to tie the two things together? Because right now the information is available, you can look up who contributed to who's campaign because they have to fill a quarterly report and the lobbyists have to register and say what they're doing. I'm just not sure what you are trying to get at in terms of ABC company gave $20,000 to Commissioner X; that's recorded now. Are you trying to come up with a mechanism that says, well, issue Y is being voted on today and therefore you should know that company X contributed X amount of dollars to Commissioner Y?

MS. RORAPAUGH: Yeah. That's exactly what I think should be happening.

MR. FINK: It's getting so cumbersome.

MS. RORAPAUGH: It's not cumbersome. If the campaign contributions were computerized instead of just PDF -- and right now we can make them a searchable computer database -- at the Supervisor of Elections Office because they now have to do electronic filing -- it would be very easy for staff or a Commissioner or a lobbyist to provide – these are the contributions that my clients have made to the County Commission in the last 12 months. That is not difficult.

MR. FINK: We just said that is available now in PDF format.

MS. RORAPAUGH: And if you are a citizen, if you can go through all of that information that is not searchable by name, that is not searchable by amount, that is not searchable client --

MR. FINK: How is it searchable?

MS. RORAPAUGH: You have to print the whole thing out.

THE CHAIR: Folks, we have gotten off track and we got to contributions. If you want to tie that to disclosure, what I'm hearing you say is -- I ran a campaign in ‘06 and people contributed to my campaign in ‘06 and here I am in '09 getting ready to vote on an issue, I need to disclose who gave to my campaign if they were from that vendor -- I don't think that is a realistic request. That is information that is available, it’s searchable --

MR. FINK: If you're that interested go do the work.

THE CHAIR: Contributions tied to campaign time, they don't tie the issues unless your campaign happens to be at time of the issue; that is a little more realistic but to go back to an ’06 campaign and look through contribution records and find out if that vendor – that elected official may or may not vote in favor of, I think that is a little bit restrictive because the information is available if somebody wants it.

MR. SCHERER: Didn't we previously discuss whether vendors ought to be allowed to make contribution at all?

THE CHAIR: I believe that might be one of the issues coming up under contributions.

MR. WOLFE: It's coming up .

THE CHAIR: Under procurement and contributions financial and charitable.

MS. COWARD: I would just suggest that we not include what we were discussing about these campaign contributions at this juncture -- and disclosure -- I think we find it relevant later in the Code to address it then, but I would be opposed to us including it under disclosure.

THE CHAIR: Any other thoughts on disclosure? Mr. Scherer.

MR. SCHERER: To me what difference does it make if it's in two places. The more you require disclosure – and we still haven't talked about penalties. Failure to disclose and failure to register other than what's in here. And you know, debarment or exclusion from that project or exclude that Commissioner for voting is a pretty strong measure; that might put some teeth into this Ordinance if you pass it, if it gets passed.

THE CHAIR: Are you suggesting that if someone made a campaign contribution to that elected official's campaign that would --

MR. FINK: Preclude them from voting on the issue.

MR. SCHERER: Maybe. I mean, if we -- avoid the hint of impropriety and after that test to do it – it has to be defined on what it is. I mean, the public thinks if people make a lot of campaign contributions to any Commissioner, that Commissioner votes favorably on a project – and I'm just telling you what the perception is; if that indeed is the perception. A hint of impropriety isn't really a interesting thing. I guess it's like beauty in the eye of the beholder, but there are guidelines that if we look at the

courts, as I said before, and you know, if it smells bad and looks bad then maybe the Commissioners ought not to vote on that issue.

THE CHAIR: I'm trying to put this in context so I have a better understanding of where you're headed with this. Just recently I got a call from a resident who contributed $500.00 to my campaign in my election. Broward County is widening the roadway in front of his development and he had a position on that development. If I'm following with this disclosure and this conflict would be, I would not be able to vote in favor of that resident's wishes because he gave me $500.00 for my campaign which is the maximum contribution; am I right there?

MS. RORAPAUGH: No. Because he's not going to have financial re-numeration. He is not hiring a lobbyist, he is not a big contractor, he is a citizen who is a constituency, who is not complaining about government action. I don't think that is the same.

MR. SCHERER: You would of talked to him whether he gave you $500.00 or not.

THE CHAIR: But the perception is now that he contributed; so therefore --

MR. SCHERER: I didn't say just contributed. I just said, avoid the hint of impropriety. Perhaps the $500.00 contribution – but how about a $50,000 contribution to your hip pack; that might be a different – your 527 then somebody gives you 50 grand for that and then the next month the contractor who is trying to widen the road to build the subdivision across the street contacts you, that might be a little bit of a different situation.

THE CHAIR: So we're looking at tying it to a dollar amount?

MR. SCHERER: No. The courts don't do that. Avoid the hint of impropriety once in a while.

MR. FINK: I think that begs the question. I understand where you are headed. If you were to prohibit a Commissioner from voting on a particular issue because they received a campaign contribution of

substance -- and again the dollar amount isn't relevant -- it begs the question of what Commissioner Schechter brought up, which I wanted to go back to because I think it is part of the discussion; and that is if you do that you will in effect shut down lobbying, because in effect if you say to a lobbyist, you can contribute all you want but that Commissioner, once you disclose that isn't going to be able to vote on your issue. You basically shut off the spigot of money being contributed to campaign; so that begs Carl's question of do we want to consider – and this is the pendulum going from here to here, and then do you want the pendulum in the middle – because Carl's question is, the pendulum now goes to the other side where we prohibit lobbying in its entirety. And I think that is what is going to happen as an unintended or an intended consequence of passing something like that. So maybe we need to address Carl's question as a separate issue after we finish disclosure because I agree with your philosophy of stick on the topic –

THE CHAIR: I think we are going to address that under solicitation and receipt of contributions. I hear you. You might not have a quorum to vote if you do that according to the contribution you can't vote.

MS. COWARD: I had raised my hand before you commented and it so happened you pretty much said what I was going to say. The point I was going to make -- where does it end. As an individual I feel strongly about a certain issue as a resident, and I feel strongly about it, just happen to be a lawyer, and I know there's a Commissioner who is more like (inaudible) as relates to things, priority for me -- and if I were to make the maximum contribution or contribute to whatever the project is as individual non-lobbyists, and are they being required – I mean, where does disclosure end? Is it going to apply to everybody? If we're going to have it I think it should apply to everybody, but I think that you're opening a door that you can't control, it would be so far reaching. So I think we need to consider that when we are deciding whether or not we want to impose such requirements.

MR. SHECHTER: Bill, you used the phrase, avoid the hint of impropriety several times and it almost follows that any contribution by -- any contribution carries with it a hint of impropriety if it's given by someone who has an interest or an upcoming -- or even doesn't even have to be upcoming today but apparently the public perceives contributions as improper, as influencing the vote; whether it does or not, there is a hint of impropriety. So how do you avoid a hint of impropriety unless you ban contributions?

MR. SCHERER: Case law is pretty clear in Florida at least with respect to judges that judges can take legal campaign contribution up to the limit from lawyers that practice before them as long as it's filed, it's registered, you know, it's reported, which it is; that's not an illegal or an action that would disqualify a judge from sitting on a case but there is a whole lot of other things that would. I don't know that the court system has addressed big contributions to 527's. The courts have addressed that if you're the campaign manager for a judge and the judge is in recent election, you cannot try cases before that judge, that judge has to recuse himself. So I'm a just suggesting that a hint of impropriety is not something that's as hard to define as you might think. It's kind of like this honest services and the federal government. Thou shall not have your hand out; to the extent that you do and you take something, you're wrong. Pretty simple.

MR. SHECHTER: That's not quite as simple as you make it out to be.

MR. SCHERER: I understand, but it puts the onus on everybody, doesn't it?

MR. SHECHTER: Well, it does. That's exactly the point; it puts the onus on everybody. When you say that somebody made a $50,000 contribution, there's a hit of impropriety – that's not a hint, it's a sledgehammer. You know, but if you give – Neal and I are elected officials; we receive campaign contributions and 500 is the maximum, so -- and I have gotten contributions from citizens who have contributed that amount

to my campaign and I have gotten contributions from lobbyists who contributed to my campaign; does the contribution by the lobbyist carry a hint of impropriety and the contribution by a citizen not carry a hint of impropriety?

MR. SCHERER: Depends on what the lobbyist or the citizen does. I mean the citizen could be mobilizing all the citizens in the community giving you a big bundle of checks to influence you on something that relates to their subdivision and did it right before the vote; that might provide a hint of impropriety that would cause you to say, I'm not going to vote on this issue as opposed to a lobbyist giving you $500.00 and doesn't have any issues before you or any issues before you right away. I don't know. You know, you kind of know it when you see it.

THE CHAIR: Robin and then Rob.

MS. RORAPAUGH: I believe that it is incumbent upon the office holder to make a full disclosure of any campaign contributions in the previous or current election cycle that they have received from any interested party -- we can define interested party on an issue that they're to vote on. Let's face it, County Commissioners do not send out thousands of letters soliciting $25.00 contributions. They raise money from the vendors that do work for the County. That is the main place most Commissioners raise their money. It's the same with City Commissioners. It is what it is. But for the public's knowledge -- let me tell you, if I'm an office holder and I know I have a controversial project coming up I may not have a fundraiser with lobbyist A or contractor A for a year, because I don't want to have to disclose to my constituents that I have taken all that money. You see that in Congress all the time. You see leadership in Congress who get -- because pillared by the press -- because they are taking monies from the industries they regulate. I think it's up to the office holder to determine what they think is proper or improper. But the way that it is disclosed today is not searchable. It is not easy. And you have to be an "insider, insider," to understand that John Smith is the vice president of such and such contracting company that's represented as a subcontractor with such and

such company that's doing the job. It is too difficult for the public, it's darn difficult for the press and sometimes -- I'm not saying the office holders know it all but they should been aware of these connections when they're making their votes.

THE CHAIR: What makes a year magical?

MS. RORAPAUGH: It could be two years. Campaign – right now I think many of the Commissioners are up for re-election right now – (inaudible)

(At this time the meeting was interrupted due to telephonic difficulties.)

THE CHAIR: Let's recess for five minutes.

(At this time, a recess was taken from 10:47 a.m., until 10:56 a.m.)

THE CHAIR: I'm going to call the meeting back to order. Are there members of the public wishing to comment? None being heard, we will close the public comment portion of the meeting and go to other business. I need a motion for approval of the minutes from 9/9/09.

MR. WOLFE: So moved.

MR. SCHECHTER: Second.

THE CHAIR: Moved by Mr. Wolfe, seconded by Mr. Schechter. All in favor signify by saying, aye. Opposed? Same sign. Unanimous. Is there any other business? Mr. .Fink.

MR. FINK: I think I'm stating the obvious here but I think we need to note it for the record so the public realizes that we're all well aware of the recent events that have taken place within the County and the consequences that these events may have on our deliberations; one of which cropped up today in terms of lobbying. We're going to find ourselves under a microscope and what we do here, the public and press are going to be scrutinizing what we do pretty carefully, in formulating and introducing guidelines that will accomplish our mission. And if I understood our

mission, it was to eliminate or greatly reduce the public's perception that Broward County is pay for play. Mark Herring testified before us and said -- and I'm quoting now, "the biggest issue is the perception by the public that government is pay to play." And we've all heard the cliché that perception is reality. The Charter Review Commission of Broward County created this body because of that perception. The November 2008 public vote, the public voted for an Ethics Commission to do something. It's incumbent upon us to formulate, create and cause to be implemented a set of guidelines and Ordinances that will help eliminate, minimize the opportunity to violate that Code and probably at same time while making it painful for those that do. The Commissioners who appointed us to this Committee had a reason for appointing each and every one of us. Each of us brings a different level of expertise to the table and although there may be overlap because there are a number of attorneys on here, we each come from a different background. However every one of us has certain things in common. Number 1, we are all busy people. Number 2, we do not donate our time frivolously. Number 3, we all believe in giving back to the community or we wouldn't be here. And number 4, I think every one of us intends to do the best job that we were asked to do by sitting on this Commission. We have to be careful to avoid the problem that could probably occur in Palm Beach County and for those that aren't aware, there was an article on October 2, in the Sun Sentinel that the voters could be faced with two separate and competing referendums on how to redefine the Ethics Code because the community groups are not happy with the Code that's being designed by the publically created body. And I think we have to do the right thing from the beginning so we don't end up in that kind of conflict where the voters are asked to chose between competing referendums. Thanks to Rob's draft we have a great jumping off point. To that end, my expertise is in procurement and using that draft as a jumping off point, I'm going to provide a white paper on procurement that I produced which does not need to be discussed today but I will hand out to all the members of the Commission and that will give an idea of what we might use as a jumping off point for procurement. I have no pride of ownership. It's just a fact that I think that's something that we can use as a place to get

started because I believe procurement is where the perception begins. And that's all I have to say.

THE CHAIR: Thank you, Mr. Fink. Two points of clarification. Rather than paraphrase what we've been charged with, I would like to Charter to remain different as what we've been charged with and that language is different than what you paraphrased. It's just a point of clarification. And we all weren't appointed by County Commissioners. Commissioner Schechter and I were are both appointees of the Broward League. Any other old business?

MR. SCHERER: Other business?

THE CHAIR: I'm sorry. Other business.

MR. SCHERER: Other business. Is this appropriate to bring up a new idea?

THE CHAIR: It is. Yes, sir.

MR. SCHERER: I don't know if it's a new idea. I have been wondering if we could somehow and maybe in conjunction with the local Delegation and a local Bill, to get an Assistant State Attorney assigned to Broward County with subpoena power to live and work here in this building rather than an Inspector General, rather than a Ethics Commission like they have in Dade County that they spend $15 million a year on and do things that we could essentially have a State Attorney whose job is to enforce State law, State ethics law at our Ethics Code. I mean, they don't make a lot of money, I mean relative to you know other expenditures of millions of millions of dollars, and have a State Attorney with subpoena power right here as an enforcer of all things legal. And that probably is beyond our scope a little bit but there certainly could be a local Bill in that regard and I know those -- you know what those folks make and it wouldn't be terribly expensive but I think it would be an interesting deterrent and interesting proposition for us to consider and I just thought I would throw that out as an idea that I have.

MR. FINK: I would like to second that. I like that.

THE CHAIR: Any other thoughts or comments on Mr. Scherer's thoughts?

MR. WOLFE: Very interesting.

MS. COWARD: I guess I'm opposed to that theory. First of all, I think it's outside of our scope for us to dictate to the State Attorney how to best utilize resources, especially in light of the times that now with the State Attorney, for instance, was requiring his employees to take forced leave and because they don't have the money. So to now put additional responsibilities on offices already over taxed, I think it's not a reasonable expectation. I think it would be appropriate if we were to request that the State Attorney considers allocating some of his assets to it if it's available, I think that is fine, but I would be opposed to us passing a law mandating that the State Attorney specifically put an attorney in the building to enforce things that we deem to be ethical violations.

THE CHAIR: Mr. Tietler.

MR. TIETLER: I think largely the enforcement issues that we're going to deal with are going to involve economic and budgetary issues on what the government can afford to do. But these are all issues that are coming up on our schedule of subjects to deal with but there are many options before us but largely a lot of them will be our economic or budgetary implications.

MR. SCHERER: The Ethics Commission that Palm Beach County with their Inspector General and the Ethics Commission in Dade County, which we already know, that fellow spoke to us, costs $15 million; I'm just suggesting if we had the power and the Legislative Delegation would help us in forming a local Bill, they could appropriate one position of the State Attorney who works for Mike Satz, assigned to this building and that would be -- I believe the State Attorneys make about $100,000 and we can give them an office and have subpoena power and essentially live here rather than $15 million or $20 million or whatever they spend, for a large

apparatus and enforce the existing laws. I mean, that just seems to be too simple. I just throw that out. Obviously we can't dictate to the State Attorney. We probably don't have the jurisdiction to do that, unless the Legislative Delegation will sign along which is where I started this morning asking that we get the legislative Delegation involved. And it just seems too simple .

THE CHAIR: Mr. Tietler, do you think that would be within the scope of our responsibility?

MR. TIETLER: Well, an enforcement mechanism for what we draft certainly is within our scope; whether it would overlap into a State Attorney, we can certainly inquire but I don't know that that is within our power to implement. Certainly not something we can actually implement but we can inquire.

THE CHAIR: Mr. Scherer, would you be amenable to discussing that with the Broward Delegation in terms of one of the issues to assist us with when they come in terms of a local Bill?

MR. SCHERER: Yes. Also with the State Attorney himself to see how he would respond. I'm sure he would say, I don't have any money. We know that, but I'm not talking about giving him an unfunded mandate either and I don't presume that we have the jurisdiction or power to do that without the Legislative Delegation, without the local Legislative Delegation but to the extent they would pass a local Bill and require Broward to fund it, what I consider to be a pretty minimum level in order to really help the process –

THE CHAIR: Perhaps you can discuss that with them when we get them here.

MR. SCHERER: I will.

MR. FINK: I think – can I call you, Bill? I think Bill makes a really good point, because in listening to this program on NPR yesterday, Miami-Dade has a standing Ethics Commission, they have an Inspector General,

they currently have a task force reviewing what's going on and they have an Assistant Miami-Dade State Attorney who is dedicated to nothing but enforcing the criminal portions not the ethical portions. The ethical portions fall under the standing Ethics Commission. The criminal portions fall under the State Attorney. They also have an I.G. and I think reality tells us – we all know what the County is facing from budgetary deficits. Anything that we can do to put a mechanism in place that will circumvent having a $15 million budget that we don't have the money for anyway, and it's not unfunded mandate because Mike Satz has the State Attorneys, I'm fully in favor of trying to come up with something where the criminal aspect of it – once they violate the Ordinance this gets taken over by the State Attorney. I couldn't agree more.

MR. SCHERER: I envision that they could even – if they believe that there are ethical violations forward that to the Florida Ethics Commission as well. And of course I asked earlier whether we're to recommend penalties, and we are, in terms of our Code, just seems that what you just said in Dade County is $20 million worth of stuff down there, that we can do it for 10 percent of that or less.

THE CHAIR: While I agree with the recommendation in asking the Broward Delegation to support a local Bill, whether the State Attorney would provide that individual or not we don't know, but in comparing us to Dade and Broward I don't believe we're comparing apples to apples because that is not what – we weren't charged with the creation of an Ethics Commission, a full office like they are in Dade -- in Broward -- having an Inspector General. We were tasked with developing a Code of Ethics, crafting a Code of Ethics for the Broward County Commission. Now, should the next Charter Review Commission grow into that, I don't know but that's where those offices came out of in those counties.

MR. SCHERER: Chairman, I disagree. I think our charges are broad enough that if we had the first part of our mandate to the County Commission -- is to form an Ethics Commission that that would be

enforceable and it would go to the voters -- if they didn't -- and the voters would require them to do that. I think that is broad enough.

MR. TIETLER: Well, I think we could probably recommend in an Ordinance that the County Commission create an Ethics Commission or even an Inspector General position, which is what Palm Beach County is actually working on right now, but to the scope of that presently, is the scope of what they would enforce is what we're drafting right now; regulations for the County Commissioners but I think we can recommend within our body of work that the County Commission endeavor to create an Ethics Commission for this Code and other codes of Ethics that the County Commission may enact.

MR. FINK: I'm not sure that's what he is saying. I don't think he is calling for a standing Ethics Commission. I think what he is calling for is a State Attorney to eliminate the need to have to fund something that we can't fund now because there is no sense creating a Commission that can't be funded, but I think within the scope of work – and I know that the Chairman has said, and you have ruled that although our charge can only apply to the Commissioners -- I think I heard in the room today that we're all in total belief that whatever the Commissioners need to be adhered to, we need to the get the Legislative Delegation to agree to form or create a Legislative document that says it has to be adhered to by all members of County staff because if you only do it for the Commissioners and don't take it down to the staff level then you have circumvented the whole process.

MR. TIETLER: Whatever we do currently or request to be done concurrently if fine, but our task at hand is to deal with the County Commissioners.

MR. FINK: Correct. But I know that Neal said at the end -- and you said that in the president's or the Chairman's report, he can make suggestions, okay, as to things we think should happen as well, although it didn't fall under the scope of our charge, that he as the Chairman in his report to the Commission can say we also find it important that this body of

work that we're creating be extended to all levels of staff. And I think that is -- that will come up for a vote as we go through the draft.

MR. SCHERER: I think we should consider the full spectrum of available remedies notwithstanding some perceived limitation of charges from the Ethics Commission so that when we're working in the hand and glove with the Legislative Delegation, if we can, we can have enacted whatever all of us, the majority of us deem to be appropriate and without regard to being limited, for instance, know whatever the passing down to staff and administration -- the same Ethics Code that applies to the Commissioners. I mean, we talked about that early on and we thought that maybe we have a jurisdictional issue there, but we shouldn't have, but my view is we ought to go forward and we have until March to do it unless including seeing what happens as a result of more shoes dropping and getting the Legislative Delegation with us so that we can, at the end, promulgate something that was really workable and if we need statutory help to do it, at the same time, do it, but have us go ahead and consider everything.

THE CHAIR: We agreed to invite the Broward Delegation here and ask them to assist in those areas and if they're willing to do that we will take it at that meeting.

MR. WOLFE: I agree with Mr. Scherer's comments and I think we can suggest and accommodate everybody's wishes as we move forth with a working document. Ms. Harris' light is on in her office day. I would strongly suggest that the Chair -- with the discussion that happened today due to the constrained timeline and the Legislative Delegation Public Hearing, I, as a private citizen, (inaudible) intend to talk to my personal representatives about the issue. There is also a commentary in the Business Review on October 12, dealing with Honest Services Fraud, in a commentary in the Daily Business Review, which I think is interesting. I read it a couple of times. I would like to submit it to the membership to read. I think most of us felt the federal laws already address that issue.

We don't need to codify it in an Ordinance, but it's good background reading. It's a nice review for everybody.

MR. SCHERER: Do you have copies for us than? (Inaudible.)

THE CHAIR: Ms. Coward?

MS. COWARD: I'll withdraw that.

THE CHAIR: Robin.

MS. RORAPAUGH: In regards to Mr. Fink and Mr. Scherer and everyone's comments, over the next few months I'm sure – I think all of us anticipate more shoes will drop. I think as we look at what our tasks and goals are that we try not to be reactive to the current events. We need to keep them in mind. I think it strengthens us in being able to put together a good Code of Ethics, but you know, we're not going to be able to solve every problem. If someone wants to take money home, cash home in a doggie bag, we can't stop that, but we can give our office holders guidelines and we can assure the public that they have full disclosure that they know who is effecting votes or not effecting votes. And I think as we keep talking about lobbyists and disclosure from the Commissioners we need to keep that in mind because we can't police – you know, if an office holder wants to be corrupt, they're going to be corrupt, we can't stop that, but what we can do is give the public the assurance that they will be able to get through the web of that. I mean, our job is to make this -- I believe the workings of County government and the workings of procurement -- as open, transparent and easy for the public to understand and track as possible. And in today's day and age, with the technology that is available, even to lowly citizen Q, that it is not that difficult. It is no longer onerous.

MR. COLLADO: I just want to add to what Robin said, that in this day and age with technology available, this transparency should reflect the ease with which you can just search and find out things without it being lumped into a PDF file and to the extent that we could recommend that be possible it should be as part of what we recommended at the end of the day. Because what happens is if -- it just makes it easier for those people

that are not computer savvy or for those who are, to go and pinpoint and find out information with regards to contribution law, disclosure, purpose of visits and that type of things, in searchable ways that could facilitate getting information, as opposed to an entire file of 58 pages and what have you. I just wanted to add that – I don't know if it corroborates with what Robin was saying earlier, but certainly with the technology available, with search engines and the ability to organize data, that would be a good tool to have in the spirit of transparency and get information to the people that are not so sophisticated, you know, with attorney type language, that some of these things are written on.

MR. SCHERER: We do have until 11:30, right? Have we discussed --

MR. FINK: Are we finished with lobbyists?

THE CHAIR: We're in Other Business, and if we get done with Other Business we will go back to our Agenda.

MR. SCHERER: Have we discussed the State law provision that says that if an office holder in their general business or private business have frequent conflicts with their public office that they should not hold public office? I don't know if we're aware of that. That is right in the State law. So that if I'm -- whatever my business is and I'm a public office holder in a city or government of county commission and I frequently have conflicts because of my personal business that I should disqualify myself, not just from that vote, but from being a commissioner. I mean, happens in a small town where a lawyer is on the Board of County Commissioners and he represents everybody in town and he can't -- he has repeated conflicts of interest so he recuses himself repeatedly and then he is not serving the public office. Have we had discussion about that all at?

THE CHAIR: We talked about conflicts and we talked about outside employment but I don't think it was as specific to the frequency of conflicts. I'm aware of the Statute you're talking about. It begins to effect the public official's ability to --

MR. SCHERER: Be a public official. In that regard, I would ask that we request that staff give us the number of times the County Commissioners have refused -- recuse themselves or have excused themselves from voting and on the issues that they did that on for the past -- I hope we have records of it -- for the past five years, let's say, because as we go forward in looking about conflicts and that sort thing it would be interesting to see what the history is with respect to Commissioners and their written recusals and it would also -- I think they have to -- once they do recuse themselves, under State law they have to file within a few days, a written report, as to why they exercised their option not to vote on a particular matter. And I would like to see if we have that information that you could provide it to us and --

THE CHAIR: Mr. Scherer, I would support that request. Would you consider the timeline? I think five years is a lot of work for staff to come back and try to research all that. Is there a more reasonable timeline that you're looking at? I mean, if it's current it's occurring. Five years is a lot of meetings to go back and try to find out who –

MR. SCHERER: I don't know how they maintain it. If that's too much, I don't know, three years. I'm just saying. Section 112, 313. (Inaudible.)

MS. CEPERO: I'll look. I think that is something we can get fairly easy. I'll look.

MR. SCHERER: Is there a record of a Commissioner not voting at a particular meeting that does not vote on an issue because they go to the bathroom or something without filing a formal recusal request?

MS. CEPERO: What happens now and it's just been fairly recently, and I don't know off the top of my head, a timeline, but I think it's been the last six months we started doing – like the captioner's when they take records of the meeting, as they're taking place, they note when a Commissioner leaves the dais and by that we'll know if they were present for the vote or not. I don't think it's a fairly easy thing to research, you

know, for each vote who was present and who was not. We would have to go through each individual item that was voted.

MR. SCHERER: If you've only been doing it for six months that information ought to be pretty easy to get a hold of.

MS. CEPERO: It's part of the record, the meeting minutes. They look just like what our verbatim minutes --

MR. SCHERER: I would like to have that as well.

THE CHAIR: Folks, I'm going to – we've got four minutes before this meeting adjourns and we have to address –

THE SCHERER: Do I need a motion?

THE CHAIR: I don't believe so, no.

MR. SCHERER: Thank you.

THE CHAIR: Staff is going to do that. Thank you. We have a timeline issue that I want to address in terms of work product. As you're aware, we have to prepare a final draft for consideration to the County Commission in March of '10; they have 120 days to either accept or reject that recommendation and if they accept it we're done, if they reject it, it goes to the electors of the County. The referendum question also calls for us to work collaboratively with the County Commission in development of this Code, as we have an upfront taken testimony, but I think that January is a reasonable time to get them a draft, if you will. We're still in a working document to look at and give us some feedback as to where we are. Hopefully they're following us and monitoring our progress and if they have any other questions or concerns they will provide that, but I don't know how else to define working collaboratively if we don't involve them at some point in that process. If we don't meet January and at the rate we're going, we might not, that pushes us into February.

MR. SCHERER: I had a discussion with our counsel about that yesterday and I reviewed the Charter directive. It seems to me even if we

took until March to give them our product they have six months to kick it around which would include interfacing back with us. I don't think we lose jurisdiction. I don't know that we thought about that, but I think that gives us six months and they can come back to us.

MR. TIETLER: No. I believe that our Commission dissolves in March.

MR. SCHERER: Does it?

MR. FINK: Can they extend it?

THE CHAIR: No.

MS. RORAPAUGH: No. Because it was a Charter. We had discussed early, early, about maybe doing subcommittees to do some of this work, which you might want to think about again or possibly we should schedule an additional meeting in the next six weeks to eight weeks so that we can keep moving; which you have done an excellent job at keeping us on task, but I mean, every discussion is with every one, so it's going to take time.

THE CHAIR: I hear you. It's likely we're going to based on the response that we get from the Broward Delegation, if not, and I will continue to repeat this -- it's interesting to hear that subcommittee issue come up again because it was shot down like a red balloon -- we're going to have to meet some more. That's why I keep saying, take a look at your calendars because these debates are being thoroughly vetted and they're going to take some time and we're requesting additional information as we go along, so we're going to be pressed. So with that being said, I hear you. Let's find out what happens with the Broward Delegation before we start scheduling – (inaudible)

(At this time Commissioner Brunson left the meeting telephonically.)

MR. WOLFE: (Inaudible.)

THE CHAIR: Ms. Coward.

MS. COWARD: I was going to suggest -- I was going to ask at what point do we start looking at calendars, because likely we're going to need additional meetings. Are you suggesting – saying that we wait until November and at the November meeting discuss – November we will re-address additional meetings at that point.

THE CHAIR: Yes. Let's find out what happens with the Broward Delegation and then we will look at our calendars prior to, and we might do that by e-mail depending on their availability. I'm going to go with Commissioner Shechter, Mr. Fink and then we will close.

MR. SCHECHTER: My only thought was can we extend these meetings, our regular meetings for an additional hour, an additional hour and one-half?

MR. FINK: I would like to make a motion to extend for a half hour today, unless anybody – I mean, we didn't finish lobbyists.

THE CHAIR: And we might pick that up next day. We're not going to finish it in 30 minutes, I wouldn't think. I can't support extending it --

MR. WOLFE: I can't –

THE CHAIR: -- due to prior commitments and I would support extending our meetings maybe starting earlier and ending later but these times are kind of locked for everybody at this point. Mr. Fink.

MR. FINK: I would like to make a motion that we extend at least until 12:00, all the future meetings.

THE CHAIR: I would have to look at our calendar and go forth. The 30 minutes at a block is not going to complete our task. We're going to be adding some meetings; we discussed that early on and we all acknowledge that early on, we're going to have to add some meetings especially as this thing starts taking some context.

MS. RORAPAUGH: One other thing, Monica, If you go back to the subcommittee that the Charter Review had on Ethics, they did some of the

-- when does a member walk off the dais without a conflict research. So it may be some wherein that documentation.

THE CHAIR: I apologize, Mr. Fink. Mr. Fink made a motion to extend all future meetings by 30 minutes. Do I have a second for that motion? Motion dies for lack of a second. We're going to close the meeting. Here's what we're going to do; I will walk next door to the Broward Delegation and see if we can line something up. Once we have some available dates --

MR. COLLADO: Mr. Chair, earlier in the meeting you mentioned that our next meeting is November, 11, and I have November 12.

MR. WOLFE: That's because it's Veteran's Day.

THE CHAIR: We moved it to the 12th.

MR. COLLADO: I will be absent at that meeting. And another thing is if we're going to consider adding more meetings, just as a request if it could be considered, that these meeting be in the afternoon because during the day extending the time would really be --

MR. WOLFE: Or in the evening.

MR. COLLADO: Evening, yes.

MR. WOLFE: I take vacation time while I'm here.

THE CHAIR: Folks, we are out of time. It is 11:31. We will correspond by e-mail moving forward. Motion to adjourn?

MS. COWARD: So moved.

MS. CEPERO: I will correspond via email to everyone.

THE CHAIR: Thank you, folks.

(The meeting adjourned at 11:31 a.m.)

Minutes
Broward County Ethics Commission

November 12, 2009

MEMBERS: City Commissioner Neal de Jesus, City of Cooper City - Chair
Howard Bakalar
Alfreda Coward
Kenneth Fink
Robin Rorapaugh
Commissioner Carl Shechter
William Scherer
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Representative Ari Porth, Incoming Chair of the Broward Legislative Delegation
Eugene Steinfeld, Broward Legislative Delegation Attorney
Andrew Meyers, Deputy County Attorney
Sandy Harris, Executive Director, Broward Legislative Delegation
Leah Von Leu, Real-Time Reporter)

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:33 a.m. on November 12, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

The Chair: Good morning, everyone. We are going to call the meeting to order. And I would ask for the roll call please.

(The Real-Time Reporter called the roster.)

Again good morning and welcome. I think everybody's here who's supposed to be here. Those that are missing we expected. And there has been a change to the agenda. Mayor

Ritter will not be with us this morning. She asked to reschedule. So that date will be coming at a later date so we will continue on the continuation of our working draft until such time as we are time certain for Representative Ari Porth. And then we will take testimony from him, have some dialogue and that should take us to open public testimony. And then other business.

Before we begin today, I want to continue to remind my colleagues that we have a tight schedule. In fact under other business, I will be setting some additional meeting dates, moving forward. And if for some reason we cannot get a quorum at those meetings, we will reschedule again.

But regardless of those meetings, we are rapidly approaching our March deadline. And that means end of February because it has to be on the agenda for the first meeting in March.

So in an effort to stay on task, I will continue to ask my colleagues to wait to be recognized to speak and we will move forth in an orderly fashion as you have been. I appreciate your cooperation in that area. And we will stay on task as to what we've been charged with according to the Charter questions.

So with that being said, I will open the floor on the working draft. And we are at – Monica, we had stopped to take up a conversation.

Attorney Teitler: I think we stopped with Honest Services. We never really addressed whether we were going to eliminate that --

Mr. Fink: I think we were on lobbying.

The Chair: We were still on lobbying. We held that discussion to go on. With that being said, under lobbyists, I will open the floor for comments. Any further comments?

Mr. Fink: Did we not have something, I'm just asking for a point of information. Did we have something about the logs being translated and put on line?

Attorney Teitler: Right, that was in the most recent draft that I submitted to the Commission. They are bringing another copy if you don't have it with you. But that was already drafted.

Mr. Fink: And then Carl had raised the question whether or not we should prohibit lobbying at all.

The Chair: Commissioner Shechter, would you like to raise that discussion?

Commissioner Shechter: I would like to bring that back. It seems – and again, I'll make the point that spending as much time as we do on the question, we validate the existence of lobbyists and try to control and regulate lobbyists. If lobbyists are okay then we should be doing that.

But the latest thing that I've read and I'm getting this from the newspapers – that the School Board has extended the scope of the prohibition against lobbying to principals of companies and so that nobody can approach or talk to them.

That being the case, why have lobbyists at all? And why regulate them? Just no lobbying – that would solve the problem of lobbying. And I guess going one step further, the thing that drives the entire lobbying industry is campaign contributions and charitable contributions. Absent that, there would be no lobbyists.

So I think it's worth discussing. If it's rejected, it's rejected. But let's not sweep it under the rug.

The Chair: Any other comment on Commissioner Shechter's concerns?

Just a point of clarification. The copies coming around now do not have the watermark "draft" on them so if you would all mark those copies draft so if they end up floating somewhere, people don't believe we have the Code of Ethics already. That we are still working on it.

Any other comments in response to Commissioner Shechter's concerns? Any other comment on lobbyists in that category in general? Mr. Wolfe?

Mr. Wolfe: Just – when we get a final document and I know we talked about it. We brought up the County's Ordinance;

the expansion of the lobbying Ordinance at the last meeting. And I know we don't want to be redundant on this thing but when the public gets a document, do we need to incorporate when we are talking about incorporating the County's language and what is a lobbyist and stuff.

I know it might be redundant but do you think it's important so that when the public gets this document they know what a lobbyist means?

The Chair: Are you posing that question to Mr. Teitler?

Mr. Wolfe: Yeah, through the Chair.

Attorney Teitler: Well, in the beginning of this document, we are referring to certain provisions, or we can additionally refer to provisions of the Ordinance in the Code so that those definitional terms can be clearer.

Mr. Wolfe: I am just curious that that might be something we would want to do.

Mr. Fink: I think that's a good point because I think what was pointed out to us by the Dade County people; they consider anybody and everybody a lobbyist if they talk to anybody regarding something that's being procured. And the point I tried to make to them was if you are soliciting goods or services and you call in a representative that's a W2 employee of that company to get information, that person's not a lobbyist.

And I think one of the things that came across since the last meeting – Brittany Wallman tried to accuse me of being a lobbyist frankly because I tried to go Stacy Ritter after one of the meetings and I left the log blank because she wasn't in and so I never filled it out. But she said I was a lobbyist because I put down a company name and I'm not a lobbyist.

I think we have to clarify --

Attorney Teitler: Yeah, the intent has to be as defined in the Broward County Code.

Mr. Fink: Okay. The other question I have under the lobbyists --

The Chair: One second, Mr. Fink. Mr. Teitler, would we reference that Code in our Ordinance?

Attorney Teitler: We certainly can.

The Chair: Rather than put the Code into our Ordinance; reference it as material referred to for the definition?

Attorney Teitler: We certainly can do that and we attempted to do that in the very beginning.

The Chair: But should we do it under lobbyist?

Attorney Teitler: Right. We can do it under lobbyist to make it clear. But we do say in paragraph B that the operative words or terms used in the Ordinance unless otherwise

provided, shall be as defined in the Broward County Code. But we can make that clearer.

The Chair: Mr. Fink, I'm sorry.

Mr. Fink: The question I asked also is this the place where we discuss penalties for violation because I think one of the things Mr. Wolf brought up regarding the School Board, again, reading the paper, and nobody says the paper always gets it right. But one of the things we discussed previously, there's no set guidelines for violations for the policies and what would be extracted as a penalty or a fine for those people who violated and do we do it under this section or is there another section in the draft that we need to look at?

The Chair: Mr. Teitler?

Attorney Teitler: Yeah, there's another section coming up where we are going to deal with enforcement and penalties of the entire Code of Conduct.

The Chair: And to answer your question, Mr. Fink, I believe early on Mr. Teitler ruled that it would be within our scope to determine what penalties or sanctions in our enforcement would be within this Code. Mr. Wolfe?

Mr. Wolfe: And I think there's one other thing I brought up at the last meeting – I think we wanted to explore utilizing the lobbying fees that are assessed lobbyists to pay

for ethics classes and some of those expenses tied to the lobbying fee if we so wish. I mean, we discussed that.

The Chair: Monica, or Rob, did you all get any feedback on that – what comes in and how that's designated within the budget?

Ms. Cepero: Yes. In the current budget – 2010 budget – there's about $150,000 budgeted for lobbyist registration. That to date, has not been as fruitful as they had expected. And that was based on the number of lobbyists that were registered and their clients before the Ordinance changed with the additional fee. Since then, there's been a lot fewer registrations so the dollars are not commensurate to what they had expected.

That being said, the estimate for the administration of that lobbyist registration is approximately to be estimated at a $100,000. So to the extent that the dollars come in as expected, there may be a little flexibility.

The Chair: I have a comment and a question. There may be fewer registrations. I don't know there would be fewer lobbyists and I think if we put some restrictions or some enforcement in here, then that is likely to go back to where you anticipated it to be when they set that number.

Could we put in this Charter that those dollars will be, whatever they end up being, will be used for continuing education for ethics training?

Do we have the authority – maybe that's you, Rob – do we have the authority to do that so that it's not – we'll spend that money there if it's available, or somewhere else if we need that, that it is spent specifically for that. We're asking that it be designated ahead of time.

Attorney Teitler: I would have to look at it but I would be inclined to think that that would be the prerogative of the County Commission; the expenditure of appropriation of monies coming in.

The Chair: Could you give us an opinion on that?

Mr. Teitler: Yeah, I'll look into that.

The Chair: Mr. Wolfe, does that address where you're going?

Mr. Wolfe: Yes, thank you.

The Chair: Mr. Scherer.

Mr. Scherer: Does the Cone of Silence fit into the lobbyists or does it come in somewhere else in this?

Attorney Teitler: It's in the Lobbyist Registration Act. It's within there.

Mr. Scherer: I'm sorry. Can you show me where that is?

Attorney Teitler: There should be section number within the Lobbyist Registration Act that deals with the Cone of Silence.

Ms. Cepero: It's not in the draft document, it's in the Lobbyist Registration Act.

Attorney Teitler: Right. It's in the actual existing Code.

Mr. Scherer: Okay, so the Cone of Silence is in the existing Code. So it would be appropriate if we were interested in considering the Cone of Silence to consider it here?

Attorney Teitler: Well, it already exists.

Mr. Scherer: Well, I understand that but if we think the Cone of Silence needs to be strengthened, or modified, or amended?

Attorney Teitler: And that applies to the behavior of vendors, so that would be beyond the scope – to modify the Lobbyist Registration Act where the provision dealing with the Cone of Silence would be beyond our scope – that would be something that the County Commission would want to amend.

Mr. Scherer: The Cone of Silence is to the Commission so that if we direct on the Cone, the Code to the Commissioners as to – I mean, the Cone applies to communication with them, right? The decision makers.

Mr. Teitler: Right. And the Cone will become relevant when we start talking about campaign contributions as well, but in terms of actually modifying that part of the Ordinance, I don't believe we can do that.

The Chair: Point of Order. I think we can – let me ask you this, Mr. Teitler. Could we address a Cone of Silence in this Ordinance we're drafting as it pertains to the Commission dealing with lobbyists?

Attorney Teitler: We can refer to it as it exists.

The Chair: Well, that's for lobbyists.

Mr. Teitler: Right.

The Chair: If we want to – if I'm going down the wrong path, I'll give you the floor again.

If we want to say County Commission has a Cone of Silence, one that has to do with lobbyists, but we're not going to go touch that lobbyist Cone of Silence, do we have the right to do that?

Attorney Teitler: You're saying that lobbyists and vendors cannot approach the County Commissioners?

The Chair: That would be --

Mr. Teitler: That is the existing Cone.

The Chair: That exists – a Cone for lobbyists and vendors.

Mr. Teitler: What I hear Mr. Scherer saying is let us not touch that but we want to address a Cone of Silence for the County Commission in here. They can't approach them on issues. We are not going to go to that other Code.

Attorney Teitler: Right. I think if it's separate and apart from the existing Cone of Silence that could be something we could look at that.

The Chair: Is that what you're looking for?

Mr. Scherer: Yes.

Mr. Fink: Can I ask a question out of ignorance?

Isn't the Cone of Silence start when an RFP is issued? When does it start?

The Chair: If I can interrupt. I think what we're trying to do is stay out of areas that are outside of our scope and that's where we just said – that one exists and it exists for lobbyists and vendors – it's on its own. But if we wanted to determine a Cone of Silence for the Commission through this Code, then we can make a recommendation that says, here's when it's going to start and here's when it's going to end and here's how it's going to apply to the Commission.

Let's not pull in this other thing that's outside our scope and muddy the issue if that's the way this Commission decides to go with a majority. Yes ma'am?

Ms. Coward: I have a question. If we were to do that as it relates to the Commission, if the one that already exists for the lobbyists includes their contact with the Commission. How could we have one separate for the Commission that wouldn't overlap or be totally separate from theirs, if theirs also addresses contact with the Commission?

The Chair: Let me give you my opinion. I don't know if it's legally correct and Rob, please correct me if it is. It shouldn't conflict but because we cannot address that ever one because it's outside of our scope – and we're not addressing lobbyists and vendors – we can say whatever they do, they do. And whoever enforces that, enforces that. Here is our intent for a Code of Ethics for the County Commission and how it would apply.

I would assume that if we recommended a conflict, then Legal would have to step in and say that conflicts with the existing Code and one of the two have to be changed. Rob?

Attorney Teitler: But you want a Cone to prevent the Commissioners from approaching who?

The Chair: Mr. Scherer?

Mr. Scherer: My understanding that the existing Cone of Silence does not apply to Commissioners reaching out to vendors, lobbyists – anyone they want at any time including when a matter is being presented – they can do it on the dais if they

want. I'm just kicking out – throwing out the idea that maybe we want to impose a Cone on the Commissioners as well. That is, coterminous would be existing, or broader, or Draconian, I mean, I'm thinking a lot of adjectives to describe what we might do to the Cone of Silence in order to have the process further protected.

Attorney Teitler: And you're saying in terms of approaching vendors and lobbyists.

Mr. Scherer: Right now the County Commission can approach any lobbyist at any time on any issue. They don't have a Cone of Silence. If it's Quasi-Judicial, they have to disclose those contacts but there are very few vendor-related items that are Quasi-Judicial. The city has more of those with zoning and things like that.

But it seems that that could be an approach that we could be considering that could be pretty effective. I'm thinking of ways to make that very effective. It could be far broader than the Cone that the lobbyists have to follow that applies to the Commissioners.

The Chair: Mr. Teitler, do you have a response before I give the floor to Mr. Wolfe and Mr. Shechter?

Attorney Teitler: No.

The Chair: Mr. Wolfe.

Mr. Wolfe: Yeah, I just recall after our last meeting – I just read a couple of examples in the Sun-Sentinel about where the Code of Silence gets thrown out before a couple of agenda items came out. I don't want to get specific about it but it was in the paper that staff distributed information and lobbyists on a court issues.

So we shouldn't get ourselves – if it's being followed.

The Chair: Commissioner Shechter.

Commissioner Shechter: Rob, I thought generally we could make our Cone more restrictive but not less restrictive. Is that not correct?

Attorney Teitler: We can make it stricter than state statute. But we need to be consistent with state statute. We also need to be consistent with the existing Code.

Commissioner Shechter: Well, we could be consistent – you're talking about regulating lobbyists. Lobbying if you will and I think Mr. Scherer's argument is a good one. If lobbyists can't approach the Commission, then the Commissioners can approach the lobbyists. There's no control at all.

Attorney Teitler: There would have to be some parameters. Some reasonable parameters as to what this Cone would be. It can't be an outright ban but some parameters.

The Chair: Well, before we go on we'll ask for some specific recommendations if you have any at this time. We can bring it back up later. Mr. Fink.

Mr. Fink: The Cone of Silence as I understand it, is to eliminate the perception that any negotiations are going on once the RFP has been met between a lobbyist and/or staff and/or the Commissioner.

If – and that's because the Commissioners now set themselves on the Selection Committee when they choose to. Maybe we're putting the cart before the horse if we don't address whether or not we're going to prohibit Commissioners from sitting on the Selection Committee because they would be neutrally exclusive if they're no longer there during that process and the Cone of Silence might not be --

Mr. Scherer: Well, even if we address the issue about serving on Selection Committees and Commissioners no longer on Selection Committees – of course, once the selection is made it's going to go to the County Commission and they are going to reselect if they want to.

So if we'd had a meaningful Cone of Silence, perhaps during that whole process so that there's no contact with them and from outside sources other than their own staff, that would be something we'd want to consider.

Mr. Fink: And Rob, Point of Information. Does the Cone of Silence extend to staff as well?

Mr. Teitler: Yes.

Mr. Fink: See I was under the impression that it did.

Ms. Cepero: The Cone of Silence applies to staff, well all staff during that period when --

Mr. Fink: RFP has been let?

Ms. Cepero: No, not when it's been let – after the initial presentations or ranking by the S/C. The Selection Committee.

The Chair: Mr. Scherer, in hearing Mr. Fink's comments – that's Item 6 that we're going to get to in Procurement. You might be on to something there but my question to you is if they're not on the S/C and it's coming to them for a vote, at what point would that elected official have an opportunity to do their due diligence on that product or vendor, whether it's through the chairman of the company, or through a lobbyist or through a sales rep. When could they speak to them to better vet that service?

Mr. Scherer: Just like – before the selection at the S/C. So that once – I mean, I don't know where we want to put the Cone. It seems the public would like us to put the Cone, you know, every bit of procurement every time, 24/7, and not have any lobbyists lobby the decision makers on any issue, period. Let

staff do it, and let them do their job and not have the influence but I'm not sure that's – I'm not sure that doesn't violate free speech and a lot of other things.

I'm just suggesting that the Cone of Silence applying only to the lobbyists is only half of the problem. It seems to me that we can address the other half in a meaningful, reasonable way that would be wise for us to consider. That's all.

The Chair: Any other thoughts or comments?

Ms. Coward: Only that if we are going to be addressing the Cone of Silence for the Commissioners, I would like a copy. I don't have one – of the Cone of Silence related to the lobbyists.

Ms. Cepero: I just requested that someone bring that to us.

Ms. Coward: Thank you.

The Chair: Hot off the press. Any other thoughts?

Ms. Rorapaugh: If we decide to address Mr. Scherer's idea in another section, can we reserve the right to come back to this section also?

The Chair: Yeah. And that's a good point. Remember, what we're doing now is simply continuing to lay down a working draft. We haven't voted on any section or anything, it's all a working product and when we make it through the first round, we'll go back and begin to finalize section by section and codify

this Code as we go. And until we do a final vote for recommendation, it would be my position as the Chair, it's all subject to amendment. Mr. Bakalar?

Mr. Bakalar: First of all, I think that's a great point, but aside from that, have we talked about electronic communication as far as what seems to get School Board members in trouble was texting.

Talking about lobbying activities that may occur away from the government premises as far as County Commissioners disclosing. But it seems like lobbyists have been e-mailing and texting Commissioners, possibly on the dais or through the building.

I don't know where that applies here but I'm guessing that technology will catch up to where there will be an easy record but it would probably be a good idea for Commissioners to disclose when they are being lobbied that way.

The Chair: Let me do my best to address it. I think we've talked about form of communications between lobbyists and Commissioners. I don't know, unless I'm just not recalling, that we spoke specifically about the ways they could or could not. I would think that any communication during a Cone of Silence would be prohibitive whether it came through a passing note, a text message, an e-mail, or a phone call, so I don't know --

Mr. Bakalar: Well, is this considered a meeting? Is this electronic communication considered a meeting or is it only face to face considered a meeting. I think that's probably where I'm getting at. Because lobbyists need to register when they come to meet with the County Commissioners. County Commissioners must disclose when they have met with a lobbyist or engaging in all lobbying activities that may occur between themselves and the individual lobbyists away from the government, County government premises. It seems to be a whole in there.

Attorney Teitler: Well, that's a legitimate concern. That is something that we really need to delve into and find out how specific you want to be.

The Chair: Mr. Bakalar, I'm going to go to Mr. Wolfe and then if you have any specific recommendations on where you want to look, we'll come back to you.

Mr. Wolfe: Just a point of information. We did have a number of County Commissioners complain about what Howard was talking about when they came and testified before us so I think it's probably a good point.

The Chair: Mr. Fink.

Mr. Fink: I agree with him completely. I also agree with him about the Cone of Silence. But the other question going back to the draft here, didn't we not discuss that when they register they have the ability to get through the gate once but

then they can walk down the hall and visit each Commissioner in succession and didn't we want them or put something in here saying that if they went down the hall from Commissioner to Commissioner, they had to register for each contact?

Attorney Teitler: Well, at the very end of paragraph B, is says this registration shall be made for each County Commissioner the lobbyist intends on meeting.

Mr. Fink: Tell me where I'm seeing that.

The Chair: 3 B. Page 4.

Mr. Fink: Okay.

The Chair: Mr. Fink, I would ask you, based on the agreement with Mr. Bakalar and Mr. Scherer, do you have any recommendations on how you would like us to proceed or any language you would like us to consider? Ms. Coward?

Ms. Coward: I was just going to propose on how to fix the issue as it relates to electronic communications. Under 3 B where we talked about that part where they intend to meet with the County Commission – I think we could clarify their intent to meet by any medium; in person, electronically, verbally, you know, we can define meeting for any communication or just take out "meeting" and put to communicate with --

The Chair: Why don't we do this – there appears to be consensus in this area. Rather than putting people under the gun to speak, why don't we take a couple minutes here. Read this

section. See if there is language in there that you all are comfortable with or language that we would like to suggest. We'll take a couple of minutes to do that. If you have something when we get started again, we'll add that. I'd like an opportunity to read this as well.

(Members took time to read at this time.)

The Chair: Mr. Fink?

Mr. Fink: If we go to 3 B. (inaudible) Lobbyists who intend to communicate rather than to meet?

Attorney Teitler: Well, I was thinking of leaving to meet because we're talking about the sign-in logs – there are two. But if we put to meet or communicate by any medium because we want to have meet there too because that is what the sing-in logs are all about. So if we have meet or communicate by any medium.

Mr. Fink: That's fine. And I think you need to specify whether electronically or in person so that there's no --

Mr. Bakalar: And can we throw it both on B and also on C, having the onus not just on the lobbyists but on the Commissioners to disclose. Might as well cover ourselves.

Mr. Fink: Because I changed that last sentence that we spoke to, to this registration shall be made for each County Commissioner who the lobbyist – and here's where the Cone of

Silence comes in. Or the lobbyist or the Commissioner intends to communicate with or – either electronically or in person.

Because electronically will cover text messaging, e-mailing, tweeting, texting.

Attorney Teitler: That's a good clarification. And again, like Neil said. We're going to go over this will a fine tooth comb anyway once we get everything put together. At this point, we just want to get a draft out.

The Chair: Commissioner Shechter.

Commissioner Shechter: Yeah, I'm going beyond section 3 B to 3 C, in which it says that the Commissioner has to report contacts anywhere and with lobbyist outside of the office.

By passing this, by having lobbyists register and all this good stuff that we have here, wouldn't that encourage lobbyists and Commissioners to meet outside of the office? In order to not to have to register and put all this stuff down on a log. And if you're going to have the Commissioner report any other contacts, shouldn't it be both sides having to report rather than just put it on the Commissioner to report a contact?

You know, I go to League of Cities meeting and I meet a dozen people – that's a contact. And that's where they are going to want to meet me. They're not going to come to my office because they're going to have to register. So having me report,

because I do it anyway, but shouldn't the lobbyists have to report that they contacted me as well?

The Chair: Mr. Teitler.

Attorney Teitler: Well, the whole purpose of putting C together was to control your first concern that lobbyists will want to meet with Commissioners outside of their offices. So now the onus is on the Commissioner to disclose and to be fully transparent with who they're meeting with.

Commissioner Shechter: Well, why would they not want to meet outside the office? I don't understand.

Attorney Teitler: If it's just a per chance meeting. If they're at some other event that a Commissioner is at. Then a lobbyist approaches that Commissioner at any event and wants to talk business. That's what we're discussing.

Commissioner Shechter: Would the lobbyist have to report that contact?

Attorney Teitler: Well, they may not under --

Commissioner Shechter: Not under B.

Mr. Bakalar: There's also a difference between intent to meet and being texted or e-mailed. B is someone coming in intending to meet with you.

Commissioner Shechter: If a lobbyist approaches at such a meeting and discusses a matter before the Commission, that is lobbying. Should not they have to report that?

Mr. Bakalar: But would you expect a lobbyist to do a blanket, you know, I intend to meet with 50 people at a Broward Days reception? That's why that might not work so well.

Commissioner Shechter: I don't mean being in the same room. But if a lobbyist approaches you or me, or whoever, at such a meeting and discusses a matter before the Commission, that's lobbying, isn't it?

Mr. Bakalar: Absolutely.

Commissioner Shechter: Yeah, shouldn't the lobbyist have to report that?

Attorney Teitler: But our intent isn't to start controlling the activities of the lobbyists right now. We do want to control their interaction with the Commissioners. We need to keep an eye on the scope here on who we're trying to control the behavior of.

Commissioner Shechter: I think we're trying to control lobbying, Rob. Well, okay. It escapes me.

Mr. Fink: I --

The Chair: Hold on a second, Mr. Fink. I need to be recognized please.

Again, I want to pull it back to the scope. Are we setting a code or a policy for lobbyists or are we setting a code or policy for Commissioners? I know there is an overlap. But let's focus on how we can hold the Commission accountable?

At the end of the day before a vote, if there's disclosure, there's disclosure. I don't know if we're ever going to be able to manage when a lobbyist meets, when or where a lobbyist meets with an elected official.

It could be at a restaurant by chance. It could be at a restaurant on purpose on another issue and they begin to say while I have you here, I would like to talk to you about my client.

So if we're addressing a Code of Ethics for the County Commission, let's look at what point we would expect a County Commissioner to disclose that meeting because whether it was intentional or unintentional, they were lobbying at some point.

So if we can focus there, whether that's before the vote, it could be as simple as that. Before the vote, you will disclose whoever lobbied you on this issue.

I think we can stay on task. We can stay within our scope and we can solve everyone's concerns without going into how do we write a Code of Conduct for lobbyists. Ms. Coward and Mr. Fink.

Ms. Coward: I was going to suggest what you just suggested. I think, this is fine. If we just go ahead and fill in that number 2. I think if we actually put the responsibility on the Commissioner does the job. I don't see the benefit of also having that responsibility on the lobbyist. I think we just

leave it as it is and just define who we want them to notify to disclose.

The Chair: Mr. Fink.

Mr. Fink: I think your point is very well taken. I'm a big proponent of you don't pass unenforceable laws. Because if you do, what's the purpose of them anyway? You can't enforce them.

Reality says – and I've been at League of Cities meetings with both of you gentlemen and I see exactly what goes on. And unless you took a card from everybody and make a determination when you went home, okay, am I now going to fill out a log that I got six cards from Sam Goren, From Bill Scherer, whoever else was at that meeting that you met and spoke to? I don't know how you're going to keep track of it. I don't know how you could enforce it.

The Chair: Mr. Scherer.

Mr. Scherer: It seems complicated. It seems it would be easier to go back to the Cone of Silence and just say to the Commissioners that nobody will have any contact with them within a certain time of an issue coming before them and then if it's not within that Cone, we don't have to worry about it unless they come here to visit, then they have to write it down.

But it seems that's part of government, is having constituents talk to you but if something is imminent and we're

really talking about procurement here aren't we? Isn't that what it's really all about? It's not really about any other government issues or good government issues and League of City issues. It's about procurement. With respect to procurement, in my view, if we really lock it down there, you know, we've got it locked down pretty easily.

The Chair: We can do one of two things. We can begin to vet a specific recommendation on what that Cone looks like, when and where, or I would make a recommendation that we – because we are not finalizing this – we hold that thought and see how procurement plays out because it may end up being a non-issue and if it's still an issue when we get through procurement, then we come back and you can look at specific recommendations on what you think that Cone should look like. Is that good? Any other thoughts or comments?

Excuse me one second.

Could I take the Representative out of order? Representative Porth, how are you, welcome. If you would like, I can suspend discussion right now from the Committee and hear you.

Representative Porth: I am happy to listen. You had me down for 10:30, so we have plenty of time.

The Chair: Okay, we'll do that then. Any other thoughts and comments on lobbyists? Mr. Scherer?

Mr. Scherer: I am wondering if this is really under lobbyists as such but the – if a Commission does a procurement on low bid, RFP, with low bid – hard bid, low bid – they don't get lobbied. They only get lobbied where there's discretion to choose or select in a beauty contest before you go to the contract with the money part.

And if they are doing building to building and if it's a low bid deal, nobody lobbies. If it's a contract to pave the parking lot, and its low bid under the state procurement code, nobody lobbies a contract like that because it's the low bid/ qualified bidder. They may lobby to get qualified but after they're qualified, nobody lobbies.

And it seems to me – they are on the lobbyist side or the Commission side – if we could try to get the Commission to do low bid, RFP's, everywhere possible except for whatever can't be done that way, we would also eliminate a lot of issues we are facing right now.

Mr. Fink: To me, it's been proven over time that low bid is not necessarily the best bid and I think that's the point that most municipalities are at and I think it's the point that government is starting to get to and it's a private sector thing.

Although I think the way the saying goes in the procurement business is that the aroma of the low price is quickly evaporated by the stench of poor quality. And that's why

it's no longer low bid. There are some things that can be done low bid, but by and large it's been proven in the private sector that low bid is not always the best bid. And a lot of governments and a lot of cities are acting on that.

The Chair: Commissioner Shechter.

Commissioner Shechter: In our RFP's we always include the words responsible responsive low bid and we have had situations where we declared a bidder is responsive, yes, but responsible, no. And so we've eliminated the low bid so that doesn't always work.

Mr. Scherer: Well, that conforms to my understanding of state law but I'm suggesting that if you have hard bid contracts and you qualify so you're talking apples to apples, you know, there's very little lobbying, there's no lobbying on hard bid contracts. You don't get lobbied on those. And to the extent they get hard bid on everything they do over here, we wouldn't be talking about this very much.

And I know the arguments on the other side. I've made them on behalf of my firm before, because if they were low bid I wouldn't get any work. But in terms of trying to figure how we could fix this as easily as possible, Cones of Silence, low bid, I mean hard bid at every opportunity takes the discretion out of it and would make everybody's job a little better.

Mr. Fink: Does that come under Procurement?

The Chair: Yeah, I was just going to say I think we are steering that way. So why don't we – unless there's – well, let me open the floor to this. We can – it seems like there is a natural tie here between the two.

Do you want to pull it into one discussion and try to hash it out that way or do you want to table it and wait til we get to it? Who wants to pull it in? Just by a show of hands. It's informal. Pull it in and make it part of the same discussion? Hold it til we get there? Okay we will hold it. Any other thoughts on lobbyists outside of the procurement process?

Mr. Fink: Did we cover everything that is transparency and disclosure or would that come under a different section?

The Chair: That is under C. If there's language changes to anything that has been drafted thus far, submit those for consideration and discussion and we'll continue to work through it.

Before we go on to 4, being that's it's 10:22 and we have State Representative Ari Porth for 10:30, I will recommend that we table Honest Services and hear from the Representative and then we'll get back into discussion. Any opposition to that? Representative?

Mr. Porth: Good morning!

The Chair: Good morning, how are you?

Mr. Porth: Do you want me hear?

The Chair: Right there so you will be on the microphone. Welcome and thank you for being here. Sandy, do you guys want to join the Representative. I'm sorry, sir, I don't believe we've met and I don't know who you are.

Mr. Steinfeld: My name is Eugene Steinfeld and I'm the attorney for the Legislative Delegation.

The Chair: Welcome Mr. Steinfeld. Welcome Ms. Harris.

Mr. Porth: This is Dan Daly. Dan is my Legislative Aide and he's passing out some bills that have recently been filed in the Legislature. One of them is mine and I will talk about it if we have time.

I just want to first thank you for the invitation. It's disheartening to hear of the misuse of office when I consider public service high and honorable calling. And I am super thankful to the invitation that you've extended to me today to come before you.

I am thankful for the Broward Ethics Commission and other agencies, including the School Board, that are considering important and sweeping changes that call for transparency.

I have had the opportunity to read over the minutes from your last couple of meetings and I was impressed with the issues and direction that you seem to be heading in, whether it's

cracking down on conflict voting, extending or eliminating the acceptance of gifts, creating a Cone of Silence when a bid is up for consideration or limiting outside employment. The issues that you all seem to be addressing, seem like a lot of the issues we are addressing at the state level; either have addressed in the past or are about to address in the upcoming legislative session.

So with that I am hoping that we can briefly go over four bills that I found that have been recently filed and you have copies before you.

The first one is House Joint Resolution 241, by my colleague Keith Fitzgerald. He really wants to open up the legislative process and bring Sunshine in to the process. If will you turn to page 4 of 14. You often hear about the budget conference and how many things are snuck into the budget and how only the top legislative leaders actually know what's going to be in the final product. And Keith, in line 90, has language that I think makes a lot of sense.

A member of a conference committee may not discuss issues before the conference committee with another member of such committee except at a meeting that is open and noticed to the public.

I think this is much like the issues you are discussing here. Open meetings, Sunshine, transparency.

I was also impressed with language that he had at line 127 on page 5 of 14. We also have a problem in the final days of our legislative sessions where we have a lot of last minute amendments.

Bills that might not have even been heard in committee, substantive matters that are tacked on to bills and unless you painfully go through a 300-page bill, you might not find it. And he has some language limiting that. During a special session, the last five days of a regular session and any extension of a special session, he writes, except a technical amendment, "may not be introduced unless the amendment was adopted by a committee or authorized for introduction by a three-fourths vote of the membership of the House of which the amendment was offered."

He addresses on page 6 of 14, in the appropriations bill format language, lines 156 to 164, he talks about the source of the funds and the intention of the use of the funds.

You may recall some issues in a recent legislative session where there were some surprises that the rest of legislature didn't know about and this tells the legislature and the people that we are serving, what is the intention of the money going to be used for. It also has some language about performance measures and requirements. These might be helpful things when you are drafting your language locally.

The next bill is by my colleague Julio, Standards of Conduct and he opens Statute 112, which I have also done on the fourth bill which we will consider today. Julio's bill is expansive.

My bill which covers the same issue is a one pager, his I think, is a 17 pager and his is sweeping and I'm not sure how it will be taken by the rest of the Legislature.

The Chair: Representative, which page number?

Representative Porth: Sure, I'm sorry. I would have you turn on page, HB 243, to page 3 of 17. He talks about limiting, doing business with family members on page 3 of 17, in line 77, he goes on to talk about conflicting employment, on page 5 of 17, on line 125, the types of employment that are limited.

On lines 178 on page 7 of 17 – on page 10 of 17, he says that no member – on line 277, "no member of the Legislature appointed state officer, employee of the legislative branch or member of any state regulatory body shall appear on behalf of, or represent, or advocate in favor of, or on behalf of another person or entity before the government, body, or agency of which the individual is an officer, employee, or member."

So there's a lot of interesting ideas that he has in this bill and I'm not sure how it will be taken by the rest of Legislature. I think that some of the ideas are well intentions

and I hope that it goes – I hope that it at least gets a hearing in Committee.

I heard, as I was sitting in the back, that you are going to be addressing Honest Services fraud and I want to bring to you're attention that Marty Caire from Davie and Senator Dan Gelber have filed an Honest Services fraud bill to mirror the Federal Government's language. It's House Bill 271.

And lastly, a bill that I filed, I just filed it this morning. We've been working with Michael McCulluf, who is the Palm Beach County State Attorney, and this is language that he developed with me that creates criminal penalties to already existing administrative penalties for the violations, the ethics violations in Chapter 112. And I called it, with the help of Dan, Restoring Faith in Public Office Act. Do you like that name? I like that name.

Those are the bills that I've found so far. Now we're early. I start working on my bills early. We still have time and I am imagining that this is such a hot topic right now, that there will be many more filed but believe we're all seeking the common goal of honest and open governance and I hope together we can restore the public's faith in the process and I look forward to working with you. I am open to questions if you like.

The Chair: Before I open the floor, I just want to thank you for being here and providing this information. I think

it's already proven to be valuable unless some of you knew these bills were already n process. I think it was what was recommended; that there may something in the works that we can look at and consider for adoption at this level. So with that being said – Mr. Scherer?

Representative Porth: Mr. Scherer, how are you? Nice to see you. I enjoy working with your daughter.

Mr. Scherer: She's about your age. Is it too late for a local bill?

Representative Porth: I think that rules can be waived to have a local bill still filed, I think with the approval of the Chair. I'm the Chair and Sandy will correct me if I'm wrong.

Ms. Harris: No, you're not wrong. On the local level, yes. We can do that here. The filing deadline for Tallahassee is the first day of session. But it would have to be done 30 days before that so you're in the timeframe now.

Mr. Scherer: Do you think the local delegation would accept the idea of perhaps calling for an Inspector General or Special State Attorney funded some way, County or some way funded, for Broward County to sit here in the County with subpoena power and maybe I'm maybe making it more expansive to investigate and ensure compliance with the state ethics laws and whatever ethics laws pass in this Commission.

The thought being because Dade County spends about $15 million a year for their Ethics Commission and it's a huge apparatus. We thought we explored at our last meeting, if we could get a State Attorney assigned here at the County and was sort of an Inspector General or Inspector General kind of function, not reporting to the County Commission, but whose job it was to be here,live here, work here – like a Compliance Officer if you will. Do you think that's something the local delegation would be interested in or could consider?

Representative Porth: I hear Eugene in my right ear. Did you want to respond?

Mr. Steinfeld: Yeah. I did. And I have been told that was an issue that would come up. Florida Statute 27.34, specifically provides for a County or municipality that may contract with the State Attorney's Office.

A State Attorney prosecuting violations of special laws for the County or municipal ordinance which is punished by incarceration, and not ancillary to any state charge would be required to be reimbursed by the County.

There's also provision in 27.34 of the general statutes that the State Attorney can contract for one or more full-time equivalent attorney positions to perform work on behalf of the County or municipality so if this Committee voted out a requirement that violations be prosecuted of whatever provisions

you enact, be prosecuted by the State Attorney, that could be done pursuant between a contract between the State Attorney's Office and the County.

It would be a bit more difficult as far as a state-wide prosecutor under Article 11, Section 3 of the Constitution because the state-wide prosecutor is not a local officer that would take – that would be prohibited by special act. That would take a general law to do that. So you would probably get what you wanted done more easily through the State Attorney's Office.

Mr. Scherer: Would there be a prohibition for having a local bill to implement what we might we recommend so that Mr. Satz would – and the County Commission – would fund and Mr. Satz would agree because you make him agree, to having one of his assistants here as a Compliance Officer. I'm using that word. That's a better way to describe my idea or our idea and our idea of that so that we could get the local bill to kind of implement that?

Mr. Steinfeld: It could be done. There are a couple of caveats. Number 1, special acts that relate to Charter counties that relate to the form of government specifically would have to be done by referendum. The question is does this relate to the former government? I could argue it either way. So the question becomes would it require a referendum? That is number 1.

Number 2, there is a policy of the House which all local bills have to go through, that if something can be done on at local level, that that would be an exclusion from the House voting up a local bill regarding that.

So the question becomes – the first question is, one, do we have to have a referendum? And two, assuming we had a referendum, is this something that could be done on a local level? Well certainly, there is an exclusion to that prohibition about doing it on a local level and that is if it's required by a referendum. The House says if it's required on a local level, pursuant to a referendum, then there is no prohibition. So it's kind of a --

Mr. Scherer: So you argue yourself back around.

Mr. Steinfeld: I think it's something that could be accomplished by a special act quite frankly. If at the end of the session we had to do append a referendum on it that would be a problem, Sandy, because we would be missing – when is the referendum? No. The referendum is for November 2010, so that would not be a problem either way. So we could do that. I think it's something that could be done by special election.

The Chair: Mr. Scherer, let me open the floor. Mr. Fink.

Mr. Fink: You had another point if you remember and that was through a local bill, if we could because we are

restricted according to Rob, about transmitting our Code to staff.

Mr. Scherer: Thank you. You bet. The second issue is that we have considered having whatever code comes out of this Commission that applies to the County Commissioners apply equally to staff.

And we believe there is a real hole there and we discussed that. So maybe Section 2 of the local bill could help us with that?

Mr. Steinfeld: It's the same issue. In other words, we have a local bill affecting the Charter County. The question becomes are we affecting the issues of self-government by the Charter County such as adopting, or amending, or adding powers of limitations to County Charters.

Again, you could argue it both ways. The only issue then becomes once again, we need a referendum, or don't we need a referendum. And again, we certainly could do it and at the end of the session, if a referendum had to be appended to it, we would have the time to do it.

The Chair: I want to, as a Point of Clarification, I don't know that we had a consensus or a call to vote for this to be our idea.

I'm okay with it being represented as a member of this Commission that a local bill is appropriate but I don't want that

to be representative of this Commission in its entirety because we did not take a consensus vote nor did we take an official vote.

With that being said, I still think there's a legal opinion on the floor as to whether it is within or without our scope of responsibility and I don't want to draw you all into this debate on this necessarily, although you may choose to file local bills on your own as a Broward Delegation and I could certainly respect that.

But before we go on and draw an opinion from you in the direction that we may not be able to go as far as our counsel is concerned, I would like Rob, for you to opinion on that again and then I'll come back to you Mr. Wolfe.

Mr. Wolfe: We have already heard that a couple times.

Attorney Teitler: Yeah, the County Attorney's Office has already opined that the local bill issue as discussed is beyond the narrow scope of this Ethics Commission. And this Ethics Commission narrow and discrete scope is to create a Code of Conduct for the County Commissioners and it does not go beyond that and there is no discretion to go beyond that.

Mr. Steinfeld: This brings up actually more of a technical issue and again, I am certainly not going to speak for our designated Chair nor for any member of the Delegation.

But it would be difficult to draft a bill not knowing whether it related to staff or how it was going to be prosecuted by a State Attorney, etc., without knowing what essentially came out of this Committee. So any Representative or Senator who wished to file that local bill would obviously want to have that language.

When does the report of this Committee become effective?

The Chair: First meeting in March.

Attorney Teitler: Submits to the County Commission in March.

Mr. Steinfeld: And Sandy, that would pose some real problems because we have to get our local bills in, according to the House rules, on the first day of session. When is the first day of session?

Ms. Harris: March 2nd.

Mr. Steinfeld: A title would have to be published. If it doesn't go to referendum, it would have to be published 30 days before it was introduced in the House. So while we certainly could do a place keeper for a couple of bills related to this subject, it would be very difficult not knowing what language is.

Now, we could get past that with the referendum because it could be appended and therefore it would not have to be published 30 days prior.

Ms. Harris: Just do it that way from the beginning.

Mr. Steinfeld: Yes, well we could. But we would still need to have the language the first day of session.

The Chair: Well, short of – and I appreciate that. If it's within our scope and we have a legal opinion that says so then we will continue to go.

As the Chair of this Commission I am not going to move forth anything that our legal counsel says is outside of our scope. So we are going to have to get past that part first.

Mr. Wolfe: I object.

The Chair: We're going to have to get past that part first before we move on to what we are asking or not asking the Broward Delegation to do. Mr. Wolfe.

Mr. Wolfe: First of all, Representative, thank you for coming before us. I was familiar with a number of your bills you filed because I follow these things. In fact, when we get to that point I am going to plagiarize some of your language and suggest that our Commission adopt some of it.

Mr. Fink: Are there penalties for plagiarizing?

Mr. Wolfe: Well, no, not if they are disclosed. I am interested in pursuing this local bill idea because I do understand our limited scope issue here.

First of all, I am not prohibited from bringing up stuff, we are not prohibited about talking about ideas of substance on this issue because of an legal opinion about a narrow scope.

What I am concerned about is as long as we tie this into a local bill where there is a public referendum, we get around that issue and I think we have legal recourse to do.

I am just suggesting that we discuss it in full and continue discussing it cognizant of the fact that we do have a legal calendar.

The Chair: Point of Clarification, Mr. Wolfe. If you understood my comment to imply that we are not going to debate this issue, I want to correct you.

That's not my point at all. My statement was that as the Chair I am not going to move forward a recommendation with a legal opinion from the counsel of this Committee saying that we cannot do it. We can debate it until we are blue in the face or until I decide as the Chair that we're going to move on to another subject.

Mr. Wolfe: I disagree with the Chair.

The Chair: That's okay. Mr. Fink.

Mr. Scherer: Point of Order.

The Chair: I'll recognize you, Mr. Scherer, after I recognize Mr. Fink.

Mr. Scherer: I think as a Point of Order --

The Chair: Mr. Scherer. You're not recognized. I'll recognize you after Mr. Fink. Thank you.

Mr. Fink: As I understand it, what Code that comes out of this Commission goes to the County Commission for them to say yeah or nay. If they say nay, it automatically goes to a referendum of in November of this year? Of 2010?

Attorney Teitler: If they say nay, it goes on the ballot. Right.

Mr. Fink: It goes to a referendum. It gets voted on by the public. Okay. And what we are saying here is two things I understand it correctly in everyday language.

If what we pass is accepted by the Commission, what Mr. Scherer is suggesting and some of agree with, is the changes that we make to the Code might necessarily change the target of the lobbyists from being the Commissioners to being County staff and in changing that target of the lobbyists, we would like a local bill which just says automatically that any code that applies to the County Commission by virtue of passing a referendum would then apply to County staff. Do I have that right?

Attorney Teitler: Well, I would also clarify as a citizen of Broward County, you can make that effort any time you want but as a member of this body, it's beyond the scope.

Mr. Fink: No, I totally disagree with you. And I'm not an attorney but we are not adjudicating or saying anything as a body. We're asking the Legislature as a body to pass a local bill that says if a Code of Ethics applies to the County Commission, then by state law or state ordinance, we're making that Code apply to County staff.

Attorney Teitler: I understand that but still what you're promoting is something beyond scope.

Mr. Fink: We're not promoting anything. We're requesting.

The Chair: Point of Order. First of all, we have a State Representative here that's been asked to come and share some of his thoughts and concerns.

We are going to further vet this issue as a Commission. We are not going to do it at the time and expense of a State Representative and his staff so what I will do is ask if there is any other questions for the Representative. If not, we will thank him for his time and then we will continue this dialogue.

Mr. Scherer: Point of Order.

The Chair: Yes, sir.

Mr. Scherer: Point of Order. I am of the view that the majority vote of this Commission would determine – and not you or your prerogative respectively as Chair, so if it's moved and the majority of this Commission wants to recommend now that the local delegation proceed with a local bill along the lines we've been talking, we have the power to do that. As a Point of Order, I believe that is within our power to do and not within your power to stop us as the Chair.

The Chair: And I'm okay and we'll continue to further vet that issue. What I'm saying is that we're not going to waste the time of the State Representative.

If you want to continue to debate this issue, we can do that. If it is ruled that that is the legal process and we can move forward, we will do that and we will send a letter to the Broward Delegation asking them to consider that.

They may or may not adopt it. After we've further vetted the issue and found out whether it's legally within our authority to do that or not. With that being said, are there any other questions for the State Representative.

Mr. Fink: I have one. Mr. Porth, thank you for being here.

Representative Porth: This is more exciting than Tallahassee.

Mr. Fink: By any chance, did you approach – since I happen to know that your other part-time job is a State Attorney in Broward County – by any chance did you happen to approach Mr. Satz about – is that a good question?

Mr. Scherer: Yeah, it is.

Representative Porth: I have not. He's aware of the Standards of Conduct Bill that I filed that I am working with his colleague from Palm Beach, but we have not talked about the Inspector General idea if that is what you are asking.

Mr. Fink: Or his willingness to locate someone on site here as a Compliance Officer for lack of a better term.

Representative Porth: We have not discussed that.

Mr. Fink: Do you have the resources to do it or would we have to as a County reimburse you?

Representative Porth: I am certainly able to go talk to him about it but I can't speak as to whether he has the manpower to bring staff over here. I don't want to talk on his behalf. I am here with my other hat on today.

Mr. Fink: Could we ask you at some point in time to do that and let us know whether that is something he would consider?

Representative Porth: I will.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: Representative Porth, thank you again for your time. How are you?

Representative Porth: It's been a long time.

Ms. Rorapaugh: It has. One of the other areas of concern that we've discussed here and was also discussed during the Charter Review Commission and their Ethics sub-committee is the state code that basically compels a policy maker to make a vote if they do not have a clear conflict. And we have been discussing heavily here the appearance of a conflict being a reason for stepping away from the dais on a vote.

Is there any activity in Tallahassee to direct some legislation to answer those contradictions?

Representative Porth: I have not seen anything yet. But I wouldn't be surprised if we didn't see something this session just because it's such a hot topic. I will certainly keep my eyes open for it.

Ms. Rorapaugh: Terrific. Thank you.

The Chair: Mr. Scherer.

Mr. Scherer: Yeah. Two things, I should have added – I did mention that we discussed at the last meeting that I was going to reach out to Mike Satz, our State Attorney and I did.

He says he has no money. Number one and it would have to be funded by somebody. But number two, he would rather it be a Compliance Officer that reported to someone other than him.

Which is typical Mike Satz. He is a great public official. Maybe the best we've ever had. That is just an opinion, present company accepted.

Mr. Fink: Good cover.

Mr. Scherer: But I believe, I really believe we ought to ask you folks to start moving forward in the local bill process because I know you – I've been down that road a few times and I know the more notice you have about it – and I would like us to have a straw vote now to see if the majority of this Commission is of a mind to move toward both the Compliance Officer/State Attorney idea and also make whatever code we pass apply to staff idea at this point so they can get an idea that they can be moving it because we don't come back for another month. And I think a month will help it.

Mr. Fink: I would make that motion, that we take a vote and see how we feel about it as a body.

The Chair: Well, there's a motion on the floor. I am going to – based on what I'm being told by our counsel, that would be an inappropriate motion, simply because it's against legal counsel to this Commission that is --

So I am not sure how we are taking a motion when we have counsel that is saying that's outside of our scope. I believe that would make that motion inappropriate so I would like to hear from the attorney again before we accept the motion.

Before we go on, Representative Porth, do you feel that you need to be here for that direction, or can we give you – can we correspond through Ms. Harris or your office as to what we'd like you to consider doing on our behalf?

Representative Porth: We can certainly correspond. I have a suggestion that might eliminate further debate and makes things a little bit more easy for you.

Individuals can recommend a local bill. It does not have to be the Broward Commission on Ethics. If you are uncomfortable giving the direction that legal counsel is suggesting to you, but Mr. Fink independently, or Mr. Scherer independently thinks it's a good idea, they can suggest to the Delegation Office and it's something I would be willing to sponsor on their behalf so at lease we could get the ball rolling and we would have time to have Gene draft it before the local bill hearing which I think is January 5th.

The Chair: And I thank you for that suggestion. I think that's what I am hearing from our County Attorney.

Representative Porth: Sure.

The Chair: I am not opposed to the recommendation, what I am opposed to is going in a direction that our legal counsel is telling us is not within our scope and moving that on as a body on behalf of this Ethics Commission.

Mr. Fink: Would you have the legal counsel tell the body because --

Attorney Teitler: To bring forth a motion that is in the view of the Chair, beyond the scope of the Commission is an improper motion and the Chair has the prerogative to not go forward with that motion.

Mr. Scherer: On the basis of Robert's Rules of Order?

Attorney Teitler: It's in Robert's Rules. It is. Improper motions.

The Chair: My position as to why I believe that is an inappropriate motion, is counsel's opinion that it's outside scope.

Mr. Scherer: So we're relying on Robert's Rules here to override the majority of the will of the Commission with respect to an issue that we're asking the local delegation to consider?

The Chair: Now wait a second, Rob. I want to clarify that as well because my position as to why I believe that's an inappropriate motion is based on counsel's opinion that this is outside of our scope.

Attorney Teitler: Right. That is correct as well.

Mr. Fink: And I disagree with that.

Ms. Rorapaugh: Same here.

Mr. Scherer: Me too.

The Chair: Ms. Coward and then we're going to thank the Representative and then we're going to take a five minute recess.

Mr. Scherer: Excuse me, Point of Order. We have a motion and a second.

Mr. Wolfe: And I seconded it.

The Chair: Neither one of you have been recognized on the Point of Order and I am going to ask that you maintain order and be recognized.

This is simply a disagreement. Let's not get all worked up because we don't agree on an issue and lose all decorum. So if you recognize a Point of Order, I'll recognize you and you can tell me what that is. And we'll move forward from there. Right now, Ms. Coward has the floor.

Ms. Coward: Thank you. I agree with the Representative. I don't understand why we're having a big tadoo.

If the goal can be accomplished by the persons who want it – if it can be accomplished regardless whether this Commission takes a position, why put ourselves in a position to contradict our legal counsel's recommendation.

We have an attorney that sits here with us every meeting and consult with him on every issue. Why when it comes to a time that we disagree with his opinion, all of a sudden his

opinion is irrelevant and we think his advice is important advice and we need his representation, then we ought to follow them even if it's contrary to our personal interest.

In this situation we can accomplish the goal without violating his interest. So why not do the simpler thing and make it happen that way. Nothing further.

Mr. Fink: In response Ms. Coward, there's two reasons why I would say that. Number one, I think there's more force of action if it comes from the body as a whole rather than single individual because this Commission was convened by the will of the public. So if the Commission is requesting the Legislature to take some action about it, I think there is more force behind it rather than one individual acting as if they are a "rogue."

And number two, not all the time does a client accept his attorney's advice. There are more attorneys sitting on this Board rather than – Mr. Scherer is an attorney, Mr. Shechter is an attorney, Mr. Bakalar is an attorney, we have enough attorneys here. And you're an attorney. Okay.

All we're saying here is that we would like them to consider a local bill. We all agree with Mr. Teitler that it is not within our scope to go outside of the Commission when we produce the Code of Ethics. All we're asking the Legislature to do is to pass a local bill that any code that is adopted will be

by virtue of its adoption be extended to staff. And that has nothing to do with outside of the scope of this Commission is doing.

The Chair: Again, we're going to – here is what we are going to do.

There's a motion on the floor that I'm being advised by counsel is an inappropriate motion because it's outside of our scope. Because there is a motion on the floor doesn't it make a motion and a second until the Chair recognizes that motion and recognizes that second whether you agree or disagree.

For now, we are going to thank you Representative for joining us.

Mr. Scherer: Point of Order.

The Chair: You are not recognized.

Mr. Scherer: Point of Order must be recognized.

Mr. Wolfe: Point of Order has to be recognized. I don't know how you do it in Cooper City but a Point of Order must be recognized.

The Scherer: That's right. Point of Order.

The Chair: Let me finish my conversation with the Representative. You are not going to interrupt me, I have the floor. When I recognize you, you can speak. I haven't recognized you.

Thank you for time. I appreciate you being here. If this Commission decides to acknowledge a motion and move forward, we will correspond with your office and ask you to take action on our behalf as a Commission and I thank you for your time.

Representative Porth: Thanks for having me.

The Chair: There's a Point of Order on the floor. Mr. Wolfe.

Mr. Wolfe: No, it's Mr. Scherer's Point of Order.

Mr. Scherer: I am going to move that we replace the Chair at this time and I believe that is a proper motion. I don't think there is any prohibition for changing our majority vote on the Chair and I move to replace the Chair at this time.

The Chair: There's a motion on the floor, is there a second?

Mr. Wolfe: Second for discussion.

The Chair: A second by Mr. Wolfe. Any discussion? Ms. Coward? I'm sorry. Let me go to the maker of the motion first.

Mr. Scherer: I don't like the heavy handedness. I don't like the abusive tone, I don't like the dictatorial position and I think we need a new Chair.

And when we take this vote, I am going to ask that Mr. Wolfe agree to accept the position of Chair of this Commission, and I move to – that's my motion and that's my discussion.

The Chair: Thank you, Mr. Scherer. Ms. Coward.

Ms. Coward: I think that response, that motion is completely inappropriate. It concerns me that if we don't get our way, we want to remove the Chair. That's embarrassing to me. We sit around this table and some of us are more opinioned than others. And some of us clearly articulate our positions more than others and have our own agendas.

But because something happens contrary to that, I don't think we should not try to remove the Chair. So the next Chair, I may disagree with Mr. Wolf, and if I do, should I entertain a motion and say I don't like what Mr. Wolfe just said and the rule he just made. And we just move around the room and take turns until we find a person everyone agrees with. I think that it is improper and I will adamantly oppose that motion.

The Chair: Commissioner Shechter.

Commissioner Shechter: I absolutely agree with Ms. Coward. The Chair is doing his job as he sees it. If you don't agree with him, that is your privilege, Mr. Scherer and Mr. Wolfe, but to remove the Chair because he has taken the position which he feels is correct – I will go with the Chair and I see no reason to replace him.

The Chair: Mr. Fink.

Mr. Fink: Question for counsel. If the will of the majority and this is Robert's Rules of Order and a Point of Order

is made and a motion is made and seconded, what makes for clarification – what makes that motion illegal? Because your opinion is, or it's the opinion of counsel and again, the word opinion is operative.

Attorney Teitler: Since you do want clarification on this, I do want to bring forth the Deputy County Attorney, Mr. Meyers to clarify this particular issue.

The Chair: Before we recognize Mr. Meyers, we have a motion on the floor for the removal of the Chair. We have a second for discussion.

Mr. Wolfe: I just have a Point of Clarification. Probably, if you're talking Robert's Rules, the more appropriate thing would be to appeal the ruling of the Chair to get an opinion of what the body says. That's probably what I would suggest the Chair entertain.

The Chair: Well, if there's a – if you withdraw your second. Right now there's a motion and it has been seconded so I either have to call the vote or there has to be something --

Mr. Wolfe: Well, I'll withdraw the second. If the Chair would want to entertain an appeal of the decision of the Chair. And I am getting – this is me just venting a little bit. I'm not upset with the Chair per say, but I'm getting a little much with the County Attorney's Office coming in here and saying

don’t do this, don’t do this, don’t do this. I like having an attorney saying this is your scope. You can do this.

The Chair: I hear you. If you recall, Mr. Wolfe --

Mr. Wolfe: And I will withdraw my second if you recognize me to appeal the decision of the Chair.

The Chair: I will do that. Let me just make this comment.

In the beginning when we started, I raised the question as to whether there was an appearance of conflict or a real conflict with the County Attorney’s Office representing this Committee and there was some very strong opinion that there was not and that he was certified and licensed by the Florida bar and his opinion was binding and legal and that is what we are going by.

And I have the County Attorney saying is what you are asking them to do is outside of your scope and therefore, you can’t recognize that motion because it’s inappropriate.

As the Chair, I am following the counsel that has been provided to us. And as the Chair, I have a responsibility and a liability of moving something on that legal counsel is saying is not appropriate.

So again, I am not concerned with the issue. But I think we were given an incredible opportunity to say hey, we’ll still move forward for you without the conflict and then I’ll get

back to the disappointment and the response to a disagreement afterwards but I will recognize your withdrawal and you can appeal the decision but I would like to hear from the attorney.

Mr. Scherer: Point of Order.

Mr. Wolfe: Point of Order. I don't' know what we're adding to the discussion by hearing from – we have to have the Principal come in and tell us that we're doing something wrong. I'm not interested.

Mr. Scherer: I'm not either. I would like to appeal – since there's no second to my motion to remove the Chair. I would like to appeal your decision, your ruling.

Mr. Wolfe: Second.

The Chair: There's a motion on the floor and there's a second to appeal my ruling to follow legal counsel's advice and not recognize a motion. Is there any discussion? No discussion. I'll call the vote.

Ms. Coward: I just have a question. What is the consequence? We appeal. The Commission votes to appeal the decision, and then we have a motion and it's heard and it goes forward and it's contrary to our legal advice. What happens then? What does that mean? I don't know.

The Chair: Mr. Teitler.

Mr. Fink: It's just a body taking a vote and saying what we would like to happen. The only thing he's doing is

offering his opinion. The operative word, as to whether or not we are within our rights to make a motion and ask the State Legislative Delegation to do something. That's his opinion. That doesn't make it right or wrong.

Any time you ask any lawyer to give you a definitive answer, he can dance faster than the royal dancers of Ireland. Okay. Because they can go either way.

The issue here is not whether or not we feel Rob is right or wrong. The issue is whether or not we as a body want to get it on the record that we feel if we do change the target by adopting the Code of Ethics for the Commissioner, that whatever Code binds the Commission, binds the staff.

And there's nothing wrong with asking the Legislature as a Commission to ask them to do that since we do not have the authority and we all abide by that decision that we don't have the authority to make our Code bound – binding on the staff. We are looking for another way of doing that.

Mr. Wolfe: Could I call the question?

The Chair: All if favor, signify by saying aye. All opposed same sign. Motion passes (with the Chair and Ms. Coward voting no.)

Mr. Wolfe: I move to officially ask the Broward County Legislative Delegation to work on a draft with our tacit

support to implement broadening and putting on a referendum to extend this Ethics Code if proposed for passage to the staff.

Commissioner Shechter: Second.

The Chair: Second by Commissioner Shechter. Discussion. Mr. Meyers?

Mr. Fink: Can he be identified for the record?

The Chair: Mr. Meyers, would you please give your name and identify yourself.

Mr. Meyers: Certainly. My name is Andrew Meyers, I'm the County's Chief Appellate Counsel.

I don't have the benefit of hearing all the discussion so I really don't want to interject myself beyond that, which I believe is appropriate and it's merely to state that if that action is outside the power of this Commission, then I guess it's subject to challenge.

Mr. Wolfe, I'm sorry.

Mr. Wolfe: All we're doing –

The Chair: Mr. Wolfe, let me finish.

Mr. Meyers: He's shaking his head. If I may be permitted to conclude my comment. And if I'm missing the boat, perhaps you could educate me on that point.

The way the Charter question is written is this Commission is to draft a Code of Ethics for the County Commission and I understand from Mr. Fink's comments, that this Commission

understands that it does not have the right to expand that to address actions of staff.

So all you're seeking to do now is that you're requesting the local legislative delegation take up a bill, a local bill or it could be done by a general act as well, to make whatever – it would be local if it's relating specifically to what this Commission does to expand the scope of it so that it also addresses the conduct of county staff. Is that correct?

My only point is this. Either that's permissible or it's not. Frankly, my opinion is that it's not permissible but that doesn't really matter at this point.

If you're only action is to make that request then you're not going to spend a lot of time and resources going down that road, then that's something that can be determined. After the fact, you can get back to the charge of this Commission.

I don't know that it makes much difference. It's either a valid act or it's not. Through the Chair.

Mr. Wolfe: Mr. Chair, just for your information, we have already been in discussion with the delegation's counsel that said this could be done. And all we are simply doing is making a recommendation.

Mr. Meyers: I am not doubting that it could be done. I am also not doubting that any of you as individuals are

entitled to approach your local legislative body and I am just responding sir because I want my statement to be clear.

I am not suggesting that it's impermissible for the local legislative delegation to do this or that it's impermissible for any individual that is a resident of the County or for that matter, a resident outside the County, to request that a local legislator tried to bring a bill like that forward.

All I'm saying, to me at least, at a minimum it's not clear but likely it's beyond the charge of this Board to do that. But it doesn't matter --

Mr. Wolfe: I'm calling the question because I'm debating with a staff attorney.

The Chair: Well, you're not recognized so you're not debating but we're still discussing. Ms. Coward.

Mr. Scherer: Do you want to reconsider your withdrawal?

Ms. Coward: Could someone repeat the motion for me? Then I did want to comment.

The Chair: Monica, could you repeat the motion.

Ms. Cepero: I don't know that I can articulate as well as Mr. Wolfe but essentially the motion as I understand it to be is to officially ask the local legislative delegation to sponsor a local bill that would have an implication to staff, to extend the Code of Ethics –

Mr. Fink: Application, not implication.

Ms. Cepero: Application of the Code of Ethics that is being drafted for the County Commission – to extend that to staff as well.

The Chair: Ms. Coward.

Mr. Wolfe: Correct. And with referendum.

The Chair: Let Mr. Wolfe clarify his motion.

Mr. Fink: Clarification.

Mr. Wolfe: And I think with the delegation's counsel, they want to draft it in a way to put this, with the wording, in a possible public referendum to make this legal.

The Chair: Ms. Coward, does that answer your question?

Ms. Coward: Yeah. My question was whether or not the Compliance -- that part of it, the Inspector General, Compliance Officer was included in the motion or not?

Mr. Scherer: It's going to be in the next motion if it's not.

Mr. Wolfe: Well, I did not say that but if the body wants it.

Ms. Rorapaugh: I would request because we think we need to vote on both of these things, but I would request as the maker of the motion to make that a separate motion. Because I think there's a lot of discussion on your idea. But as it's

presented like that, you will have one guy with three note pads and one pencil and no phone who is in charge of ethics in Broward County. They'll starve him.

The Chair: Assuming the delegation is going to get a bill passed.

Ms. Rorapaugh: Yeah, exactly.

The Chair: Any other?

Mr. Scherer: My hearing in my left ear is not that good. Would you repeat that?

Ms. Rorapaugh: I am basically requesting to keep those two motions separate.

Mr. Scherer: I think they should be also.

Mr. Wolfe: That's fine.

The Chair: Any other discussion on this motion?

Mr. Fink: And I think for clarification, if I might, whatever we end up passing, or whatever ends up passing either by virtue of the Commission accepting our recommendation and the Code we draw or if the defeat it or reject it, then it goes to referendum, it will pass in all probability in that version or in that scenario.

All we're saying is that whatever gets passed in the end gets extended to staff so you do not eliminate them from being exempt from the Code of Ethics.

Mr. Wolfe: Point of Information, Mr. Chair.

The Chair: Yes.

Mr. Wolfe: Like I said all we are doing is requesting in the local bill process that I'm familiar with. They could reject this whole idea.

The Chair: I am going to call the question. We are well into Public Comment and I need to apologize for that.

All those in favor say aye. Any opposed same sign. (Passes with Ms. Coward and the Chair voting no.)

Mr. Scherer: I would like to move that we also consider asking the local delegation --

The Chair: We are going to go to Public Comment right now. We will come back to finish the business of the commission. We are 18 minutes past due for Public Comments which was time certain. So we will take a – is there anybody wishing Public Comment? It might be a moot issue. Yes, ma'am? Could I ask you to complete a comment card before you leave? You are welcome to speak now.

Ms. Vondrak: I just be want to be --

The Chair: Sit at the microphone please. I need your name for the record.

Ms. Vondrak: Hi. Lisa Vondrak and I'm a resident of District 7 so that's Mr. Rodstrom's distric.

There's kind of an irony in you depending Mr. Teitler's opinion for what is outside the scope since he is one

of the people who would be covered, right? The ethics issues. So it's like saying Mr. Teitler, do you think what we're doing in limiting and gifts and access and so forth should apply to you, yourself, and he says no.

I don't think so. That's almost a conflict right there. And you seem to be going back and forth between do you depend on Mr. Teitler's opinion for what you decide is out of the scope or is he depending on you to decide what the scope is.

So the people in Broward County want something to be done. And I think Scott Wyman wrote an article about the sweeping changes that you're doing when really it looks like you are looking for as many loopholes as you can get.

So I don't think you depend on any staff person to tell you what's in the scope or what's outside the scope. That's for the Commissioners to decide for themselves.

The Chair: Thank you, ma'am. Anybody else from the public? Yes, sir.

Sir, if I could ask you to complete that comment card when you're finished and state your name for the record.

Mr. Rand: My name is Russell Rand, former County employee and I have studied the issues for some 60,000 hours and as Rob has pointed out the ethics – the Charter Review, I wasn't allowed to speak on the ethics issues either because of the attorney present or whatever.

A hundred times more, money falls off the truck that has nothing to do with the Commission. And I see lobbyists in my former agency over the years many times. They are steering the process too and tracking them, whether you put a bar code and run them through the scanner and that kind of thing - superficial whatnot.

But it wasn't the Commission in the County lab or took chemicals or dumped chemicals or made me eat asbestos 33 years ago. It was the staff. There are plenty of laws, Federal, State, Constitution of the United States, the County laws; they are not following their own laws and processes throughout County staff. It just doesn't happen. I wouldn't be sitting here.

And as locally has happened, a lot of things have hit the paper and whatnot; including the settlement scams and all these kind of things that I'm well aware of. I don't have enough money. There is only one of me. And I have limited funds and the more I lose, which is $300,000 so far, whatever.

There are plenty of ways to steer the ship wrong and that's what's happening all the time, every day. Money is being lost, whatnot.

On a more important issue. There are two things facing the County; economic, things it's going through right now and the environmental thing.

And just on Ida that was forecast and it was supposed to be a tropical storm of the Yucatan and turned into a Category 2. There is no program, no computer modeling for rapid intensification.

People are going to be fiddling when Rome burns. This Katrina event is going to come in. It's inevitable. There's going to be massive destruction and loss of life. And I don't trust the processes, the people in the Environmental Agency at all. This is a ludicrous situation.

I've had my job taken away because I came back from lunch early and this is ludicrous, while the Director of Human Resources filed a false sexual harassment, the EEO dragged it on for three and a half months after the clerk said no such thing went on.

The Chair: Mr. Rand, would you complete your thoughts?

Mr. Rand: I filed a complaint with the Federal Equal and was immediately suspended and fired. Including the miscommunication about the drug manufacturing that led to the arrest of the chemical engineer afterwards.

If this is not wrong doing, what is? If I am not a whistleblower, who is? If this isn't corruption of the system, what is? The taxpayers want more and more and more. And the Charter of 2002 was to give protection, accountability and an Ethics Code. These are all three parts of the same enchilada.

The Chair: Thank you, sir. You are out of time. Any other member of the public wishing to be heard? Please fill out your comment card. Thank you very much. Any members of the public wishing to be heard? None being seen. We will move back to the business of the Commission. Mr. Scherer.

Mr. Scherer: I would like to move that we recommend to the Legislative Delegation that they begin to process a local bill that we – to empower the County – to compel the County to fund a position for the State Attorney to act as a Compliance Officer for the County as we have discussed.

Mr. Fink: Second.

The Chair: Second by Mr. Fink. Any discussion? Ms. Coward.

Ms. Coward: Unlike the last one, this one I am opposed to it by content. It's a substantive one, not just the procedural issue. I think if the bill were to empower the State Attorney and the City to do that, to create such a position, then I would be in favor of that, but to compel it for us to encourage them to compel something that the State Attorney cannot afford. We have no idea of the budgetary implications of it. There's a whole bunch of details that they could then work out themselves.

I will recommend that we do not go that far as to compel the State Attorney and the County to enter into a contract

to create such a position but maybe we need to ask them to give them – to empower them to do so if they deem it appropriate.

Mr. Wolfe: Mr. Chair?

The Chair: Yes, Mr. Wolfe.

Mr. Wolfe: According to our presentation from the Broward Legislative Delegation, I think maybe compelling is the wrong word because there are provisions in the Florida Statute 27.34 which was brought before this Commission that the State Attorney may in fact enter into a contractual relationship with the Broward County Commission for enforcement purposes.

We all recognize being in public the State Attorney's Office has horrific financial problems. Hopefully our Delegation working together can find those resources or by passing this referendum the County will have to help the State Attorney's Office a little bit with some resources and this is off the be subject a little bit – but if we are requiring lobbyists to have registration fees, those funds might be used by Commissioners at their discretion.

The Chair: Any other members have any other comments? Yes, sir.

Mr. Scherer: Let me make one more. There was a cry a month ago that we as a part of our bill here, consider asking the Commission to form a permanent Ethics Commission staff funded

similar to what they have done in Dade County and similar to what they are doing in Palm Beach at great expense.

And we kicked around this idea of one position here as a Compliance Officer – we'll use those terms – would be a very efficient way to address this and probably as effective and maybe even more.

So I wanted to make sure the record is clear that I'm trying not to – trying to head off a very expensive proposition of an apparatus of an Ethics Commission permanently at great expense to the County where I think it could be done more efficiently.

So that was the purpose of the motion. Was the idea behind it. I understand – like every other idea, there's some downsides to it but that was the point. And I am sure those downsides will be discussed at the local Legislative Delegation level.

The Chair: Mr. Scherer, what do you estimate those costs would be?

Mr. Scherer: $200,000 a year, including benefits, maybe less than that. Maybe $150 -$160,000, including their benefits.

Mr. Fink: I'll do it for $100,000.

Mr. Scherer: Well, I'm talking retirement and benefits. We could ask our counsel what's in the budget for a

seasoned County Attorney including salary and benefits, and all that and it'd be at that level, which I think is probably less than $200,000 a year.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I think that there are going to be many ideas on enforcement. And what is the best way to have enforcement of this Code of Ethics and it may end up being someone from Mr. Satz's office, contracted for that, but is this a motion better entertained after we have fully discussed how enforcement would take place?

Mr. Scherer: My thought is they should get the local bill rolling because they need to do that. And then we can consider whether there is any likelihood that it's going to get passed in terms of our enforcement. It seems to me that time is of the essence here with respect to this motion.

The Chair: Mr. Teitler.

Attorney Teitler: My only issue or concern is whether this could be viewed as an unfunded mandate. Something coming from the Legislature directing Broward County --

Mr. Wolfe: It would have to be ratified by the voters.

Mr. Teitler: Right.

Mr. Scherer: Well, it may have to be ratified anyway.

The Chair. Mr. Fink.

Mr. Fink: Are you implying that Tallahassee has never done any unfunded mandates in the past?

Attorney Teitler: Well, that's beside the point. But they are inappropriate. And needs to be--

Mr. Fink: That's never stopped them in the past.

The Chair: Yeah, I'm not going to worry about the legislation, Mr. Scherer.

Mr. Scherer: It needs to be by referendum, I would bet that it would pass overwhelmingly. But we can't get the ball rolling until we push it so I suggest that we pass this motion and get it pushed today.

The Chair: Mr. Wolfe.

Mr. Wolfe: Just for the sake – we need to get rolling our because our time is almost up.

Mr. Fink: I make a motion to extend the time if necessary.

The Chair: Any other discussion on the motion. We got a motion and a second.

Ms. Rorapaugh: If this is a yes vote, does this stop us to work on other ideas on enforcement? This issue is just a request for the Delegation to be ready.

The Chair: What we are doing here as the Delegation has clearly stated they can't sponsor a bill that they don't have language to support anything we are doing.

What these motions have triggered, and these votes, is getting them to file a shell so they are in the loop and then we will provide them with language that will give them some substance to consider. So --

Mr. Scherer: Point of Order. We didn't ask them to do a shell. We asked them on the first motion that was passed for them to go forward and implement it and number two, this motion did not ask for a shell. It asked for a motion to request that they start work on a local bill to fund a State Attorney position for the County to mandate a State Attorney position for the County to act as a Compliance Officer.

The Chair: I apologize. I thought I heard them say without our language they would have nothing to file but they would get something in the process. With that being said, I will call the question. All in favor, signify by saying aye.

All opposed, same sign. (Motion passes with Ms. Coward and the Chair voting no).

Mr. Scherer: Carried?

The Chair. The motion carries. Thank you. I need a motion to extend.

Mr. Fink: I make a motion we extend.

The Chair: Is there a second?

Mr. Wolfe: For how long?

The Chair: For five minutes.

Mr. Wolfe: I second.

The Chair: Second to extend the meeting for five minutes. All those in favor say aye. Any opposed, same sign. (Passes unanimously.)

We need to add some dates. I'm not going to look for a consensus because as you all know when you go through a calendar and set something, it becomes difficult with a group of this size.

But what I am going to recommend is that we meet on the 18th or 19th of this month and if you all would send your availability to Ms. Cepero, that will get us another meeting in before the holidays this month. And if you go into December we are currently scheduled to meet on the 9th. And to get two meetings in December without getting into the holiday season, I would ask that we move that 9th up to the 2nd and we entertain the 2nd and the 16th as two meetings in December.

Mr. Wolfe: Can we have these meetings in the evening?

The Chair: If that serves you better, when you send a response to Ms. Cepero, if you'll say hey I'm available these days and we'll go with the majority once you send your responses to her.

Ms. Rorapaugh: Just so you have it, on the 2nd is the County Association of Counties, etc., there are a lot of things going on in Tallahassee with elected officials that week.

If it's okay, can we also send if we're available 9th, or 16,th or 2nd?

The Chair: 2, 9, or 16. If you'll respond by week's end to your availability, she will send out a confirmation. If we have a majority – if we have a quorum we will move forward with those four more dates.

Mr. Wolfe: Mr. Chair, will she send an e-mail confirming all those dates? I have another item.

The Chair: Yes. Any other business?

Mr. Wolfe: Mr. Chair. Could we invite the President of the Broward League of Woman Voters, as well as the chairs of the two major parities if they wish to participate.

The Chair: Didn't we receive a letter from the Broward League of Women Voters? No? Any thoughts or opposition to that recommendation? Mr. Fink.

Mr. Fink: I think we've been meeting for nine months. We see how far we've progressed in the last two meetings and we're basically still on lobbyists. That's as far as we've gotten.

The Chair: This is what I would recommend Mr. Wolfe, and again, we'll go with the majority. I think – we thought we were done and agreed to bring in the Broward Delegation so I don't want to close the door on other invitations if we think it's appropriate.

Maybe we should continue to hash through the first round and if – as we get through that revision – we are just adding meetings now to make sure we get our product done. I don't want to jeopardize that. Does anybody have an opinion on that? Any other thoughts or comments? Okay.

Mr. Fink: I move we accept the minutes of the last meeting.

Commissioner Shechter: Second.

The Chair: We have a second – all those in favor signify by saying aye. Any opposed? (Passes unanimously.)

Ms. Cepero, would you go over some take aways.

Ms. Cepero: Yes, if I may also. I received a phone call from the Broward Workshop and they have requested perhaps some time at the December meeting to come in for a few minutes and share some thoughts that the business community had on this proposed Code of Ethics.

She also suggested that she would be sending a letter with some recommendations so as soon as we receive that I will pass it along to everybody.

The Chair: In light of the recent discussion, I think let's accept the letter at this time, and based on those recommendations if we feel that we need to hear from them personally, we'll pull them in. I don't know how we turn around

now and say let's hold on to these other three and bring in someone else. Ms. Coward.

Ms. Coward: Can they not come during public comment time?

The Chair: They can.

Ms. Cepero: They can. It was for extra time.

The Chair: They were wanting to be agended but yeah, we can extend that invitation if you will, as well.

Mr. Fink: No, they can come during public comment.

Mr. Scherer: Go ahead and tell them that.

Ms. Rorapaugh: When she spoke to you, was she asking to be on the agenda?

Ms. Cepero: Yes.

Ms. Rorapaugh: And were they asking for December or January?

Ms. Cepero: December.

Ms. Rorapaugh: And the request from the League of Women Voters was us asking the League? Yeah, they haven't requested. And I believe the other entity was we were going to request to them. This is an organization that is requesting we put them on our agenda. And I move that we accommodate that request.

Mr. Wolfe: Second.

The Chair: Motion and a second. Discussion.

Ms. Coward: Yes. I think we should get through this some more and then we can have people on the agenda after we make some progress. But for those who want to be heard I think we should encourage them to come for public comment and then maybe we can accommodate their specific request after a few meetings down the road.

I think we should encourage people to come but not to the extent that we cannot complete a final product.

The Chair: If there's going to be further discussion on this, I need another motion to extend for five minutes.

Mr. Fink: I move we extend five more minutes.

Mr. Bakalar: Second.

The Chair: All those in favor say aye. (Passes unanimously.) Mr. Bakalar.

Mr. Bakalar: Where's the Mayor in all of this? Isn't she supposed to be coming back also?

The Chair: She hasn't given us another date.

Mr. Bakalar: Oh. I think for consistency sake, requests to be put on our agenda --

Mr. Fink: I think Ms. Coward made a good point. We have a half hour allocated for public comment. We don't need to specifically agendize anybody. They have a half hour. Show up at 11:00 and they have a half hour to speak.

Mr. Wolfe: Do you people know who the Broward Workshop is?

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: We have had so few participants from the public. We have had so few participants from other entities. We have had to reach out and bring people into the process.

I think we should embrace entities who now want to be a part of this process whether they're the Broward Workshop or Joe-Schmoe Community Association. If they want to come and present their ideas to this commission, I think we should show them the courtesy of hearing it.

We have rules in the public comment that is three minutes. We have had one meeting that was held in a location in a time specific where the public could participate.

If we have entities that are recognized who have done significant work who actually support, by the way, the Broward Workshop supported this Commission coming into being. They spent actual money advertising with the public about the benefit of that ballot language passing.

If they have a presentation they want to make, I think it's worthwhile to let them speak.

Mr. Fink: Why don't we offer a compromise? Why don't we agendize them for 11:00 and extend the time to whatever they want?

The Chair: We can do that. I was going to recommend that we move our meeting start time up to 9:00 and then give them 30 minutes. And we will just extend the time of our meeting so we can hear from them.

Mr. Fink: Did we decide, because Mr. Wolf made a suggestion that the additional meetings be done at night. Are we going--

The Chair: As you all submit your availability for those days, give your preference for day and night.

Mr. Wolfe: Because Mr. Wolfe has to use vacation time.

The Chair: She is going to send out an e-mail of all the dates.

There is a motion on the floor and a second to invite the Broward Delegation – Broward Workshop. Would you consider amending that to start that meeting at 9:00 and extend that invitation?

Ms. Rorapaugh: Absolutely.

The Chair: All those in favor of the amendment say aye. Opposed same sign. (Passes with Mr. Scherer and Ms. Coward abstained from voting.)

Mr. Scherer: I abstained from voting.

Ms. Coward: Abstain.

The Chair: Passes with Mr. Scherer and Ms. Coward abstaining. Do you need to finish take aways?

Ms. Cepero: Sure, I can do that.

The other point if I may. Point of Information I wanted to share with you all is based on the discussion that you guys have entertained about having computerized or electronic type of logs for the Commission. The County Administrator has directed staff to begin looking at that; we've already had a couple of meetings with our internal IT folks.

So we're looking into setting up a template and you know, what that might look like so that's already in the works and I wanted to make sure I communicated that to you guys.

As far as take aways. The only two real significant take aways were to direct the – or to ask the Legislative Delegation two motions for the local bills to include in the Ethics Commission Code – extend that to staff and have a referendum on that local bill – for them to start drafting it and the other piece of that was to ask the local Legislative Delegation to begin a local bill requesting the State Attorney to house a staff person here or Compliance Officer at their expense of the County.

The Chair: Mr. Teitler.

Attorney Teitler: And if we are finished with the lobbyist section, I will go ahead and tweak that section based on

what we discussed this morning send that out for the next meeting and I will also research the use of funds for ethics training.

The Chair: We're finished for this round.

I will close with these comments. The first meeting I took over as Chair, I raised the question as to whether there was a real or perceived conflict with the County Attorney representing this Commission.

There was some very strong opinion that there was non. And now we are raising it as a potential. What I would like to suggest is, give it some thought, and if there is and you feel we need to go in a different direction, we need to discuss that.

Until then, I am going to assume as the Chair that we've accepted it and we are going to move forth at that Council. And I say that to say this.

I am dismayed at the response that we received to remove the Chair because of a disagreement in process based on legal counsel. I think it's unprofessional. I think it's inappropriate and I want to avoid that in the future.

This is not my life nor do I need to Chair this so I serve at the will of the Commission. I would just ask that if you do so, you do so because of just cause not because we disagree on a issue.

I thank you all for your time and participation.

Mr. Scherer: If you're going to make a speech, I'll make a speech. I did it because of your heavy handedness, overbearing, pushing around, arrogant treatment and I didn't appreciate it in front of a State Representative so if you're going to act like that, I'll move it every time. I didn't appreciate the heavy handed way that you acted and wouldn't accept our vote in face of the majority of the Board who wanted to move forward so you know, I'm sorry, Mr. Chair, you know, I'm going to make a speech, I'll follow your speech –

Mr. Wolfe: I move to adjourn.

The Chair: That's your prerogative, Mr. Scherer. I accept motion to adjourn. All in favor signify by saying aye. (Passes unanimously.)

The Chair: Have a good day. We are adjourned.

(Meeting adjourned at 11:43 a.m.)

BROWARD COUNTY ETHICS COMMISSION

December 9, 2009

MEMBERS PRESENT: City Commissioner Neal de Jesus, Cooper City - Chair
City Commissioner Carl Schechter, City of Pembroke Pines - Vice Chair
City Commissioner Felicia Brunson, City of West Park
Washington Collado
Alfreda Coward
Ken Fink
Robin Rorapaugh
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
George A. Morgan, Broward Workshop Ethics Committee
Brad Seff, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on December 9, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

COMMISSIONER DE JESUS: Good morning and welcome to the Broward County Ethics Commission meeting. Again I want to apologize for the record for the delay. There was a little bit of confusion as to whether our meeting time was 9 or 9:30 and we couldn't start until we had a quorum, so we're ready to go and Mr. Morgan, again, I apologize for not being timely after inviting you as an agenda guest.

With that being said, can I have roll call please?

(Roll call was taken at this time.).

COMMISSIONER DE JESUS: Thank you.

Good morning Mr. Morgan.

Mr. Morgan is the Chair of the Broward Workshop and we have asked him to come speak before us this morning.

The floor is yours, sir.

Mr. MORGAN: Good morning, everyone.

Let me just correct one thing. I'm the immediate past Chair of the Broward Workshop.

I come to you today as both a citizen who's interested in honesty and transparency in government. I come before you as a public official because I sit on the governing board of the South Florida Regional Transportation Authority and I come to you as a representative of the Broward Workshop.

Just for the record, and for those of you who may not be familiar with the Broward workshop, I can read you a very simple mission statement. "The Broward Workshop is a private non-profit, non-partisan business organization established in 1981 consisting of the chief decision makers representing 100 of Broward County's major businesses and professionals. Through the workshop, business leaders seek to facilitate positive solutions to Broward County's critical issues and to serve as a catalyst to encourage the cooperative effort between various entities working for countywide specific long range common goals."

I can only add to that, that the workshop is a very diverse group. We have members from all over the county representing all types of businesses. We have lawyers, we have bankers, we have retailers, we have all types of businesses

represented by the workshop, and I'm very proud to have been a member of it for many years and have Chaired the group for the last two years. I would also like to thank this group for allowing us to come here and speak.

The Broward Workshop recently established an Ethics Committee, which I'm the Chair, because we believe at the workshop that this is not only an important issue, but it's very timely. I don't know if any of you had a chance to read the newspaper this morning, but the Supreme Court yesterday heard arguments about the validity of an anti-corruption law, and it's interesting to note, the argument was not about whether or not there had been corrupt activities. The argument was basically about, is the law definitive enough? Is there really a basis for prosecuting people when the law reads as generally as they put it here, a law that makes it a crime for officials to deprive the public of their honest services. I think I'm a reasonably intelligent person, and I'm not sure what that even means, and so when you sit here as members of this Commission, I think you have a very large and very important task. There is no one in the community that would say that ethics and honesty in government is not important. Everyone wants to be treated equally, if they come to do business with the county or any of the cities within the county, or any other government agency. The trick here or the importance here is to properly define what is ethical behavior? What do we expect of our elected officials and our government employees and what are the consequences if you don't comply with what is established as ethical behavior by this Commission?

You know, the Broward Workshop was instrumental in putting forward three initiatives that were passed in last November's election, one of which led to this Board's creation and activities. But again, we haven't accomplished anything by just passing

laws that talk about ethical behavior if we haven't properly defined it. And I think that is the task that you all face here. We're trying to be helpful in that respect, as our mission statement says. We're here to provide you with what research we have been able to do, both by our own members, several of whom are prominent attorneys here in Broward County as well as by a group that we use that advises us on all types of political activities and so forth, I guess consultants, for lack of a better term, that help us with that. We're going to, at the end of this -- I think we have actually already done it, we have provided you all with some information that comes from the Jacksonville, the City of Jacksonville and it's a portion of their ethics code and it includes information about their ethics hot line.

We have done, as I said earlier, a lot of homework on this and we found that Jacksonville, although not a perfect thing, we're not suggesting you all take Jacksonville's code and write it here, but it's probably a good guideline and might give you all some good and viable ideas on how to do this. The voters believe in the importance of the ethics ordinance and this Commission's work. The easy part was passing the ballot initiatives. The hard part is the work that this Commission is now trying to do, to try and build a strong meaningful and effective ethics program.

You know, lobbyist and whistle blower are negative terms to many, many, many people in this community. What most people fail to realize is we're all lobbyists in one form or another, whether we be advocating for improvements in our school systems for the benefit of our children and our grandchildren, or whether we are speaking about environmental issues and trying to find ways to improve our environment, whether we be business people trying to find ways to improve our businesses and hire more

employees. We all have a so-called special interest. The term lobbyist should not be a dirty word and doesn't need to be, if we have good solid rules of how lobbyist are supposed to behave and how they are supposed to operate within the confined of our system.

The same thing is true of a so-called whistle blower. Is a whistle blower a tattle tale like somebody we talked about when we were kids in school? No. They provide a very important function and bring to light, not necessarily illegal activities, just bring to light activities that need to be looked at and handled in a better way.

So we have to create, hopefully through this Commission, both a set of rules but also a whole sense of what is ethical behavior, and that we want people to understand exactly what is expected of them and how we're going to enforce it if things aren't done in a proper fashion.

I noted in the paper that no sooner had this Board met and started talking about enforcement, and one or more of the Commissioners was saying, "Wait a minute, your task was only to talk about the rules, not to talk about enforcement." Without enforcement, you don't have rules. So there is no way to separate the two.

We think that ethics training is a key part of whatever comes out of this Commission. It's one thing to talk about ethical behavior. It's another thing to know exactly what that means.

When I first was seated on the SFRTA Board, there was some type of procurement that was occurring, and I get this memo that says we're now in the Cone of Silence relating to this matter. At that point I didn't know whether the Cone of Silence was something I got at Baskin Robbins or something I was supposed to know about,

and so it's foolish of us to think that this massive system of government, whether it be at the county level or the city level, and all of the thousands of employees that we have working for the county and for the different municipalities, know exactly what they are supposed to do in terms of doing what we put under this broad title of ethical behavior. I think many times they don't understand exactly what we're talking about. Sure they understand they are not supposed to lie, to cheat, to steal. Of course, but those simplistic rules get very complex and very gray when you put it into the overall spectrum of what is going on. So education is an important part. Being definitive about gift laws, the provisions and parameters for that is very important. Transparency, when conflicts of interest exist. It's impossible for a County Commissioner or for a City Commissioner to do business on a day in and day out basis outside of your official duties and not, in some way create conflicts of interest. There is nothing wrong with a conflict of interest. It just has to be recognized and it has it been dealt with, and so if there is a part of what we call ethical behavior, if we make sure everybody understands it, okay, we understand you could have a conflict of interest here. Let's just make sure that you react in the proper way and you step off the dais while things are being discussed. You don't espouse your opinion and then say at the last second when you are ready to vote, "Oh, by the way, I have a conflict of interest here" after you have spent the last half hour telling all the merits or demerits of what is being debated.

So those are the kind of things that need to be defined and I think this Board can do that, and then of course you need strong enforcement. From all we have been able to discover, we have looked around the state and even outside the state of Florida, if you want to have a good ethical, a code of ethics, you have to have some type of

enforcement. Whether you call it or have an Ethics Commission of two or three people or you have an ethics officer which seems to be, becoming more common and probably more cost effective, that is probably a good start. Having a hot line that is manned 24/7 that doesn't come through the city or the county's direct business lines but comes through a private line so that people know they have an ability to speak without being concerned about who knows what they have said or losing their job or otherwise is not an important element so that you create a system where people at all levels can talk about what is being done and what is not being done or what should be done.

So we're a big believer of the idea of an ethics officer. As an example, an officer is not just meant to be a policeman. In Jacksonville, they train the city staff, appointed officials, elected leaders on the ethics code in the provisions. They serve as a liaison between the staff and the County Commission or the Ethics Commission in some cities or countys.

Often times the ethics officer is appointed by the Mayor and oversees a so-called ethics department. These are the people that man the hot line, as an example, or would help with the educational side of it, but that appointed official is confirmed by the city council.

In our instance where we don't have a Mayor other then on a one year term, maybe the nomination needs to be by the entire Commission as opposed to just the Mayor of that particular point in time, because usually the ethics officers term coincides with the term of the Mayor, so in most county's that is like a four year term, so the ethics officer would have a four year term and the next Mayor would then appoint the next one.

So whether we do it through a Mayor appointment or whether we do it through

the County Commission is really unimportant. It's just a matter of finding the right person to do that job and giving them the ability to operate in an insulated fashion, insulated in that they are not being unduly affected or manipulated by any of the individuals within either the Commission or within the staff or other people they have to deal with.

The ethics officer can be a full time, part time person or can even be an outside contract. You could actually have somebody from outside the government perform this task, and of course their big job is to be a part of, dealing with the hot line.

So I think the Jacksonville study that we have presented to you is a good case study or template for you all to look at and review. I wouldn't want to sit here and try to tell you everything that needs to be done. You all have taken I think a very holistic approach to this, and I commend you for your initial effort here and want you to know that I personally and the Broward Workshop, as an organization, we're here to try to help. We're here to try to give you additional information. We will do research for you. We will do whatever it takes to try to help you all come to a conclusion that is warmly received by the County Commissioners.

I also think that we should think a little bit beyond the County Commission, because really when you are talking about a code of ethics and an enforcement, that shouldn't just be at the County Commission level. This really -- my hope would be it would be adopted by every municipality we have. We have a code of ethics that we adhere to within the SFRTA. Should there be different codes of ethics throughout our county? Probably not. Should someone in Pembroke Pines look to their elected officials under one set of standards but not know that that same set of standards is in

Cooper City or is in Plantation or in Sunrise? I think we'd like to see uniformity because we're not talking about anything that any normal, rational person wouldn't say, that is the right way to do things.

One last thought, and that has to do with procurement, which is the area that obviously most people feel that is where ethical behavior becomes very gray and a lot of things seem to happen that come to light later and say why did we do this or why did that person get this particular job or appointment.

At the SFRTA, when it comes to procurement, our staff -- we put out the RFP's and they analyze and then they make a presentation to us at the Board. Now as an example, I sit on the Property Committee and Chair that for the SFRTA. Why? Because I'm the only fool that deals with real estate on the Board, so I got that job. One of our members is on the Construction Committee. Why? He is now retired but was the owner of one of the largest construction companies in -- not just in Broward County, but in the southeastern United States, so he has certain expertise to that, but neither of us gets involved in procurement. In fact on Friday we're going to be voting on a million dollars plus contract to build a new parking facility. I was involved with discussions about what we wanted to do there, but I had nothing to do with the procurement. I don't know who bid on it. I'm waiting to see what staff presents to us at the meeting and then we will vote on it. So there is no appearance or any semblance of impropriety. I think that is an important issue that needs to be looked at in real depth by this Board.

Miami Dade, as an example, they are not permitted to sit on Selection Committees. I'm talking about the County Commissioners in Miami Dade County. I think that is a good rule. I think that getting the advice of County Commissioners on any

area where they have particular expertise or areas where it's directly effecting their particular district, I think makes all the sense in the world, but I think the Selection Committee should be handled by the professionals that they have hired and presented to them, to the entire Board, for them to make a decision. I think you would avoid a lot of potential conflicts of interest if that was put into effect.

I think the Cone of Silence is a very important thing. That is a very, very, good vehicle when you are at that critical stage of defining who is going to get a contract and who is not.

So with that said, I'm here to answer any questions you might have.

COMMISSIONER DE JESUS: Thank you, Mr. Morgan.

I will open the floor at this time to any Commission members who have any questions or comments.

Mr. Wolfe.

MR. WOLFE: Thank you, Mr. Morgan, for coming here today.

I think it's going to be very important, as we -- the next couple of months, as we try to put together a document that the Broward Workshop hovers over us and gives us their opinion, good, bad or indifferent, because as we get a working document to present to the County Commission, there is going to be a little tug of war over some of these issues.

Have you studied the proposal done up in Palm Beach that is being presented with the creation of their Ethics Commission and their new policies, which I think was done in concurrence with the business community up there?

MR. MORGAN: I have not.

As I understand, it's a relatively new and even may still be evolving. I'm not sure it's 100 percent complete up there.

MS. BOUTROS-VANI: I'm Kareen Boutros. I'm the Executive Director of the Broward Workshop.

We have been working very closely with our business associates in Palm Beach, the Economic Council of Palm Beach and the Palm Beach Business Forum, and they have been exchanging information with us and like he said, our consultants are helping us review those enormous documents and we will be happy to review them and help you in any way, in working with that group, give you an opinion or some sort or whatever you need from us. We're willing to help you.

COMMISSIONER DE JESUS: Thank you, ma'am.

MR. WOLFE: I think some of us on the Committee are struggling with enforcement concepts, because obviously, I agree with you 100 percent, we can talk about all the rules and regulations you want, but if there is not an enforcement mechanism, it doesn't matter and we have a lot of rules currently in the book which isn't being enforced in this county, such as Cone of Silence and things like that, but it's going to be imperative. I'd like to see a review of that and suggestions because I struggle with creating a bureaucracy and spending money on an Ethics Commission and that type of stuff and I want to make sure, if we're looking for a compliance officer or some type of enforcement, that it makes sense, fiscally, and there is some independence there and I would love to see what you guys think.

I was at a presentation from Miami Dade and I have been following the Palm Beach stuff, and it was -- I think the only reason it's getting resolved up there is because

the business community came down hard and said it will be resolved, and we'd love to have your guidance. I would, personally.

MR. MORGAN: I think it's important to say again, an ethics officer is not meant to just be a policeman. There are a lot of questions that come up every day in government, both at the County Commission level, the County Administrator level and at the staffing levels, about different things that are going on, that are just part of the normal course of business, and the ethics officer is actually a way for people to be able to go to and get advice. Is this the way this should be handled? Should we handle this in some different fashion? What is your suggestion? An ethics officer can be somebody that actually helps the process, more than by just being an enforcement person.

You know, there is enforcement currently. We have had three elected officials indicted in this county in just the last couple of months, so there is enforcement, and maybe what you ought to do by having a better defined set of rules and regulations, which is what a code of ethics is all about, and having some internal enforcement of that, maybe you can avoid that final step of going before an Attorney General and possibly going to jail, because it is possible somebody could do something that they really don't even understand this was a problem. Trust me.

As a public official, I have had to learn things I never even thought about as a private citizen or as a businessman, but sitting on the SFRTA Board now for going on six years, believe me, I learn something almost daily about what this whole process is about, and being able to go to an Ethics Commission or an ethics officer and privately ask how do I deal with this or how should I deal with this, can be a big plus.

We don't need to look at an ethics officer anymore than we look at a lobbyist, as I was saying earlier, as being some sort of Darth Vader evil person. That is not what it's about. It's about somebody that can educate and provide answers, as much as somebody who could issue a reprimand or ultimately a fine or if it gets beyond all of that, making the case to go before the Attorney General.

MR. WOLFE: I understand too, and I haven't read the ordinance in Palm Beach, but I understand Palm Beach even included incarceration in their enforcement with their Ethics Commissioner, their Compliance Officer.

MR. TEITLER: That is not enforcement. That is penalties.

MR. WOLFE: Well, penalties, so I was curious to see what they were doing up there.

MR. FINK: And just to speak for one second if you will let me.

MR. WOLFE: Yes, sure.

MR. FINK: I believe I read that there were two different competing codes of ethics being presented in Palm Beach County and they were trying to wrestle with which one was going to be presented, one by their official group and then there was an unofficial group, and there was an article I think had been forwarded to us a couple of months ago that was in the Sun-Sentinel, about the fact that the non governmental appointed body was not happy with the direction that the governmental appointed body was going, and so they were coming up and competing, so when you referred to it, I didn't know which one you were referring to.

MR. FINK: I'm thinking if I remember right, the Commission did approve a plan but I have not read it yet and I'm just going by the Sun-Sentinel article from the Palm Beach --

COMMISSIONER DE JESUS: Gentlemen, could I ask that we continue to use Mr. Morgan's time before we run out and then under other business, we can debate that information provided further.

Mr. Fink.

MR. FINK: If I understood you correctly and thank you for being here. I apologize for being one of the people that didn't show up on time. We were going to blame somebody else.

If I understood you correctly, it's your opinion through the Broward Workshop, that no elected officials should sit on the procurement committee?

MR. MORGAN: Well, I would say that is my personal opinion, as head of the Ethics Committee. We haven't passed a resolution from our entire -- we're still in the formative stages of all of that.

MR. FINK: And then you spoke to the Cone of Silence. Let's talk about that one second, because if you remove, as I understood you correctly, your personal opinion is there should be no elected officials sitting on the procurement committee, and if in fact you remove them, then what in fact is the purpose of the Cone of Silence and are you aware that the Cone of Silence, as it exists right now, does prohibit lobbyists or interested parties from contacting members of the procurement committee and the Commissioners, however it does not prevent the Commissioners from contacting the

lobbyist, and if -- Rob, you're going to correct me if I'm wrong, but is that the way it's stated?

MR. TEITLER: Yes.

MR. FINK: So the Cone of Silence, as far as I'm concerned right now, is a sham, and I'm not sure why we would have a Cone of Silence if we have a group of professionals, and this is what I'd like you to speak to, if -- as you say we have a group of professionals on the procurement committee, why would you have a Cone of Silence, if they needed to go out and get additional information in order to prepare an intelligent and comprehensive set of documents to present to the Commissioners to vote on since they will no longer be, if that is the case, on the procurement committee, when the Cone of Silence, which right now is -- one way it's allowed and the other way it's not, which makes no sense, and in the other way, if I were sitting on the Selection Committee, I want the ability to call a representative of the company that is going to bid and say I need you to clarify something. I'm not saying I'm going it do it on my own, but that Cone of Silence should really not exist in the first place, and so one of the things I'm questioning, and I don't know about the rest of the committee, is there a need for a Cone of Silence and right now if there is a Cone of Silence that allows one way communication but not the other way, then does that need to be changed as well?

MR. MORGAN: You know, I think the Cone of Silence is meant to deal with the SFRTA, from my experience, is meant to deal with the Board members who are going to do the actual vote, and what basically happens is once they put out the RFP and parties have been identified and they are going to respond to that RFP, we're not supposed to talk directly with those people about that issue in any way, shape or form.

MR. FINK: Which people is that?

MR. MORGAN: The people that are identified as the contractors that are going to provide the bid.

MR. FINK: Why would you not be able to talk to them? What is the purpose of that?

MR. MORGAN: I think the purpose is to avoid the fact that I think sometimes it might even be for my own good, because I would be absolutely inundated with people calling me every day from one of those groups, trying to influence how I might vote at some point, when it finally comes before them, but the reality is this. What the Cone of Silence is meant to do is level the playing field. I

n other words, let's say you're going to go out for procurement of this table, and you have got five different people identified to do that, and one of them is a very big company on the New York stock exchange, and they have got tons of money and tons of people to try to influence that decision, and then maybe you have got somebody down in Hialeah that can build this table just as good as those guys, but he doesn't have a deep, deep pocket to be able to do that.

I think that the Cone of Silence is meant to level that playing field so that if you put in your bid for that, your response to that table, you want to be looked at by the procurement people themselves. Those people don't have a Cone of Silence. That person is trying to put in his bid. He can call and ask questions, make sure what exactly do you want, what do you not want.

MR. FINK: Not at the county level.

MR. MORGAN: Well, I know the --

MR. FINK: The Cone of Silence at the county level, as I understand it, extends to the department that is even making the request for that table.

MR. MORGAN: Candidly, I don't know how you could do that because who would you ask a question of if you were putting in the RFP?

As far as I know, and I could be wrong about this, but I have only been involved with the Cone of Silence as it effects me, as a Board member, and I know once they do that, I know I'm not supposed to be talking -- like right now, I know we're buying an amazingly complex and highly expensive new fare system, you know for the actual cards that people buy that get on our trains and so forth and so on. Well, that has been bid out with a number of people. I'm not supposed to talk to those people, and candidly, I don't want to talk to them. I want our staff to talk to them and I want them to be able to make sure that they are comparing apples to apples, so I don't know how a Cone of Silence would work with the Selection Committee and staff people that have to make a legitimate evaluation of what the proposal is. I take contracts every day to build projects. I'm a real estate developer, okay, and I get a bid from three different general contractors. I don't just look at the number. I have to get into the bid and make sure I understand what did this guy include; did this guy somehow not include that, et cetera, et cetera, so I don't know how you could possibly have a Cone of Silence with the staff people that are then supposed to make an intelligent presentation to the Board to vote.

COMMISSIONER DE JESUS:: Mr. Morgan, I'm going to ask Mr. Teitler to answer that question so we all have clarity on it, that you asked, Mr. Fink, in terms of the Cone of Silence and we have allotted 30 minutes and we're out of time, but I would also ask

the Commission to take Mr. Morgan up on his offer for further information and assistance and contact him, if you don't mind, sir, personally.

Do any other Commission members have any other questions or comments for Mr. Morgan?

MR. TEITLER: Your question was on the probation between the County Commissioners?

MR. FINK: I think my statement was, that if I understood what you explained to me correctly and what we read, that the lobbyist or employees of a bidder cannot contact the Commissioners, however the Commissioners can contact them?

MR. TEITLER: That is correct.

If you look at Section 1-266 B, dealing with prohibited communication, that is the one that addresses that a contractor or a vendor cannot then communicate with a County Commissioner or staff, but then if you go further on within the code, under E 2, nothing contained in this section shall prohibit a County Commissioner or the County Commissioners personnel from initiating contact with a vendor or a vendor's representative, and subsequent communication relative to the competitor's solicitation.

That is what we discussed.

MR. FINK: This is just an editorial opinion, makes it a sham.

COMMISSIONER DE JESUS: Why don't we do this, because we're going to go on, on the agenda. We're out of time for Mr. Morgan, and any other comments you have, we will discuss under other business, after we get through the continuation of the draft.

Is there something relative to --

MR. WOLFE: Can he provide us with contact information?

COMMISSIONER DE JESUS: Do you want to provide that to staff so you don't have to give it to us publicly?

MR. FINKELSTEIN: Can I ask one quick question of Mr. Morgan?

COMMISSIONER DE JESUS: No. We're out of time. You can give him a call, Ken. Thank you.

MR. MORGAN: Thank you very much for giving me the opportunity.

COMMISSIONER DE JESUS: All right, folks.

We're on to item 3, continuation of a working draft, and we left off the last meeting, right before we got into number 4, Honest Services. So we will open the floor at this time for Honest Services.

Any thoughts, comments from any of the Commission members on that item?

MR. TEITLER: As Mr. Morgan had mentioned, the actual federal statute on honest services fraud is now before the US Supreme Court, so the merits of that particular statute is being considered right now, and as we have already seen, there is a proposed state statute dealing with honest services fraud that has been submitted by one of the legislators.

MR. WOLFE: Mr. Chair.

COMMISSIONER DE JESUS: One second.

I would just add, unless we had a guarantee they were going to finalize that decision before our work is due, that we have to at least address it and consider it or just say we will, as was said before, we will turn to the existing law as it pertains to honest services.

Mr. Wolfe.

MR. WOLFE: Just for the sake of discussion, I wasn't (inaudible) in House Bill 271 as presented last month, and I wonder if we could just throw that in there for discussion.

Representative (inaudible) presented that at our meeting last month at his proposed honest services legislation in Tallahassee, for this session -- not that it's perfect, but some of the verbiage in there was very good. It's a bill by Representative Karren (phonetic spelling) and Senator -- I'm blanking on his name, to tighten state honest services statute.

COMMISSIONER DE JESUS: Mr. Wolfe, did you want to discuss that now, under the honest services issue?

MR. WOLFE: Sure.

MR. TEITLER: And you will also notice I did add other standards of conduct, paragraph B, I included Florida statute, Chapter 8380 there.

MR. FINK: What page is that?

MR. TEITLER: That is paragraph B, page 2 of the draft ordinance, in the event we did not want to actually add anything to our code on honest services --

MR. WOLFE: You provided us with copies last month, I believe --

MS. COWARD: Is it the one page document?

MR. WOLFE: Yes, 271.

I just think for the sake of discussion it ought to be included.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Does the Chair think it might not be prudent based on what is happening at the Supreme Court level and the state level that we table honest services for later on or do you think it's -- there are things that may happen within the next 60 to 90 days.

COMMISSIONER DE JESUS: I got you. I'm okay with that.

I'm just hearing that they are talking about maybe June before they are -- so again, whatever changes it's going to trump whatever we put in place anyway, so I would think we still have to continue our work.

MR. WOLFE: And we have severability clauses that Rob has put in the document that there are Court cases and things -- it's just to move a document forward.

COMMISSIONER DE JESUS: Any thoughts or comments on honest services?

MR. WOLFE: Just that the bill as proposed, basically tightens existing state law and extends the current standards set forth in the United States code and also states that a violation is a third degree felony, punishable under Florida statute.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Out of ignorance, isn't the issue before the Supreme Court the definition of honest services?

MR. WOLFE: Yes, sir.

MR. FINK: So, unless we're prepared to sit here and define what we think are honest services, that would be the issue?

MR. WOLFE: It going to site federal code eventually.

MS. RORAPAUGH: This provides an additional -- an ability to prosecute, if the Fed's don't make their case --

MR. FINK: But if we do that, we're going to have to define what we mean by honest services, because that is what the federal Court and the Supreme Court is ruling on, that the term honest services is so nebulous that it can't be left as honest services.

MR. WOLFE: Actually we're not defining. We're referring this to federal and state law as determined what honest services are.

MR. FINK: The issue is whether this committee even wants to have it included, because we're already going to incorporate it by reference, as it already exist, so it's whether we need to even add it to this code or not. That is really the issue.

COMMISSIONER DE JESUS: It's included by reference already under standards of conduct. What we're saying now is do we need a section for honest services? We're not going to define that. The Courts are disputing right now how to define it. The federal government has defined it. Now somebody filed a lawsuit and said we don't agree with that definition. It's too nebulous, it's too broad. We want it more specific. We don't know the outcome of that. Regardless of that outcome, if it's in our code of ethics, that is what -- it will follow the state and/or the federal law, depending on the issue, so do we want to reference that in a separate -- I believe that is the question before us. Do we want to reference that in a separate section under honest services or keep it under standards of conduct as a reference?

MR. WOLFE: I'm just suggesting putting it in for right now. You guys might want to take it out.

Do we need a motion or just put it in there?

COMMISSIONER DE JESUS: I don't think we have had a motion so far, just a consensus, but any other thoughts or comments on it?

Ms. Coward?

MS. COWARD: I'm not necessarily opposed to having it in there. I just don't see the purpose of having it in there if we're just going to refer to another document, so basically you are adding something in there that serves no purpose. Just theoretically, I don't oppose to just adding something that serves no reason but I don't necessarily see a harm, other than if we were simply citing as opposed to trying to define ourselves, which I don't think we're trying to do.

COMMISSIONER DE JESUS: Any other thoughts or comments?

MR. FINK: Well, if we don't have it in there, are we at risk?

MR. WOLFE: The reason I'm suggesting it is this bill by Senator Dan Gelber and representative Karren, sites current state statute and US code in reference to this, which is a current Supreme Court case which is being discussed. It's above our pay grade. But it does also increase current state law penalty, which I think is a good thing. I do like the felony part of it.

MS. COWARD: Are you suggesting that we do it as a separate category or --

MR. WOLFE: Or just put it in right now and then we can discuss it if -- I'd like to see what the attorney says and where it should be. It might be under enforcement later or a different section. I don't know. It's debatable.

MR. FINK: If it's not a motion type of thing and we're just looking for consensus, I will agree with you. I will agree it should be in there. We can always remove it later or if something happens to change our mind, but rather than not have it there, we're better off having it there. We can either delete it later or it can be modified according to federal --

COMMISSIONER DE JESUS: So we're recommending the proposed House Bill 271 be submitted under Section 4, Honest Services, but understand it's a proposed House Bill which may or may not end up being a bill.

MR. WOLFE: In our law, our ordinance can be stricter than state law.

MR. TEITLER: And considering you have the State Bill out there and you have the US Supreme Court considering the whole federal statute itself, I think we're safe because we're alluding them both within our code anyway, so I certainly don't think we need to define anything in our code because we don't know what the US Supreme Court is going to say, and that could be 10 months, a year from now.

COMMISSIONER DE JESUS: Mr. Wolfe, can I ask you a question?

Am I hearing that based on that last comment, you would be proposing that this language be inserted regardless of whether it becomes a State Bill or not?

MR. WOLFE: Correct, just for the purpose of moving this document forward because everything in our proposed document is subject to debate later on and nothing is in concrete yet.

MR. FINK: So in effect what you are saying, if I understood you correctly, you want to take the language from this Bill and insert it in there?

MR. WOLFE: Yes, sir.

MR. FINK: I'm okay with that. I mean if it's consensus and not by motion.

MR. WOLFE: It's consensus right now.

MS. COWARD: I'm okay with 1 and 2. I was not certain about 3. I don't think 3 is where this would go, the one about enforcement and punishment.

COMMISSIONER DE JESUS: That is towards the back under D, 6 D or 7 D. I apologize. So we can move that.

For now, Mr. Teitler, if you would insert this language into Section 4 and as we move on we may pull out that enforcement section or pull out --

MR. TEITLER: The only issue would be whether the penalty section of that statute would be consistent with the county code. Paragraphs 1 and 2, certainly, but as far as paragraph 3, I would have to look as to whether that would be appropriate with the County Code.

COMMISSIONER DE JESUS: Would you do so and get back to us?

MR. TEITLER: Yes.

COMMISSIONER DE JESUS: Any other questions or comments on honest services?

Section 5, solicitation and receipt of contributions from lobbyist, vendors, others, et cetera.

Section A, charitable contributions and fund raising. Let's take that before we go to section B.

MR. WOLFE: I just have one issue.

COMMISSIONER DE JESUS: Mr. Wolf.

MR. WOLFE: I pulled this a couple of months ago because it came up on a County Commission agenda. I wanted to bring it up before you. I think it's a minor issue, but my thing with contributions, whether it be charitable or political is, as long as there is transparency under current law and it's disclosed, I really don't have a problem with any of that. I make contributions. I'm in the political process and I think those

things are transparent. There is one deal though that came up, Section 18.63 of the Broward County Administrative Code requires donations of $500 or more be accepted individually by resolution of the Board. I think that is a good thing and I think the Board should never waive that. There was an instance where the -- and this is a good idea. The County, I think it was in June, committed a sum of over $100,000 to the promotion of the 2010 consensus, but within that resolution they stated they were going to replace county funds with donations from third parties, but they voted to waive the transparency and waive the individual acceptance by resolution, and I just don't think the County, under any circumstance, ought to waive those rules. There is nothing wrong with making charitable contributions. There is nothing wrong with promoting the census. There is nothing wrong with those issues, but if a Commissioner is going to go out there to raise money to supplement funds, it should be out in the open. That is something I would support and I would vote for if I was a Commissioner. I think there should always be transparency. I would just ask that within this section, we make it clear that section 18.63 should never been waived. It's the publics right to know.

COMMISSIONER DE JESUS: Does everybody understand that section that Mr. Wolf is referring to or do you need copies of it or need further explanation?

Mr. Teitler.

MR. TEITLER: I don't have that copy.

COMMISSIONER DE JESUS: Mr. Wolfe, do you have a copy you can provide?

MR. WOLFE: Yes.

COMMISSIONER DE JESUS: While he is doing that, any other thoughts or comments on charitable contributions?

MS. RORAPAUGH: I think one of the things we heard from the Commissioners, the current policy makers, is that they wanted to be able to continue their good works and efforts for charities. I think it's important we allow them to do that but the transparency that Mr. Wolfe is referring to is established. Right now you have no -- as a citizen I have idea how United Way raises it's money and how much the Mayor or a County Commissioner is involved in that. So I think we need to think through how to make that more transparent, so I know that Commissioner X is raising money from business person X for this good cause. It allows for that fund raising to still take place but it puts it out into the open.

COMMISSIONER DE JESUS: And I can certainly support that.

As I said earlier, I think it's important for an elected official to be able to utilize their position in the community, to do good for the community, so whatever those thoughts are with transparency, for charitable contributions, I think that is some of the things we need to throw on the table now. What are your thoughts in terms of -- what would allow an elected official to continue to accept or assist in raising charitable contributions for a local non-profit?

MS. COWARD: I was just going to concur with everyone else that they should be able to do it and we just need to come up with transparency, but I was just going to ask the question, is there some draft or something we could review, that we could use?

MR. WOLFE: I think I remember one example, I think, the City of Deerfield was struggling with that issue too, and I think what they did as part of their procurement RFP process, I think the vendors disclosed coming up to the city, “I have made these political donations to the Commission. I have made these” -- maybe they have touched

charitable contributions too. I'm not sure, but we could certainly, maybe do that and there is nothing wrong with disclosing that stuff.

I noticed yesterday, after the County Commission meeting, the Sun-Sentinel blog listed one of the vendors selected for the insurance, on the insurance issues and it talked about Neil over there, who is lobbying for them and who is doing political contributions or made no political contributions, so either the reporter was on top of it or --

COMMISSIONER DE JESUS: For those who are listening, could you clarify the Neil, please?

MR. WOLFE: Neil (inaudible), my good friend.

COMMISSIONER DE JESUS: Thank you.

The other discussion that we had earlier on that pertained to charitable contributions were not just the transparency portion of that.

I'm sorry Keith, you are the only one over there. Sorry I keep looking this way.

The other discussion that we had early on when we first addressed this was that there was some concerns as to whether the -- what part of the office was used in soliciting those contributions, whether it was county staff on county time, all those other components, so we need to hear some thoughts and suggestions on that as well. Several Commissioners said, “I don't use my staff. I give them my mailing list and they contact them.” Others said, “I would make the phone call but I wouldn't put an amount,” so as you craft this, we need to put some of those thoughts in.

MS. RORAPAUGH: I know at least for federal office holders, they are permitted from using any government resources, including staff, phone, office, paper, et cetera, et cetera.

As a matter of fact under McCain (inaudible), a congress person or US Senator was prohibited from raising money for non-profits, and they have to get special exceptions to do it, so you might want to reflect on the federal code for some guidance for appropriate language for prohibition of government resources being used in these acts of solicitation.

MR. WOLFE: When I worked for the California legislator, they had in there state code which I think is a comfort level, which the residents of Broward County would like, you make it real clear -- I think we discussed this earlier, that office phone, office faxes, office resources shouldn't be used, cannot be used so that Commissioners know and in California, you're not allowed to solicit or accept a contribution within the building. And that might be here too, but I think if you put some of those in there, it makes the public feel good and also lets the Commissioners know exactly that their staff and office cannot be used for that and I can do these good things, but we're not going to use county resources to do them.

MS. COLLADO: I feel that is something that I would definitely agree with because it does then come across as something I'm willing to do because I'm a server of the public and do it in my own time and with my own resources outside of the job that I was assigned to do as Commissioner.

So I -- if we're going to move in that direction, I would love to have that language in there, with regards to limiting the office and the personnel and time and everything that goes with that from being used for such a cause.

COMMISSIONER DE JESUS: That language maybe simpler in using what Ms. Rorapaugh said, no government resources may be utilized for charitable contributions.

MS. COWARD: If I'm a citizen and I have a non-profit organization and I want to try to get one of the Commissioners to support it or do something, what I'm likely to do is go on line and look up their phone number and call their office, because I wouldn't have their personal communication or I would likely send an e-mail to the e-mail address that is public, so how do we fix that problem because it's not the Commissioner making a conscious decision to use resources, but quite frankly there is a resource being used because the person that is using the county address or the county e-mail or the county phone number.

MR. WOLFE: I don't think so.

MS. COLLADO: Can I speak to that?

I think the difference would be the solicitation part as one, but the reaction of the Commissioner based on the framework of whatever we come up with would be addressed more from the side of how the Commissioner reacts then from the soliciting party, I think. I think we're more addressing the reaction of the Commissioner, limiting it in such a way that it stays within whatever we come up with.

THE CHAIR: Mr. Fink.

MR. FINK: I'm wrestling with this one, because I'm a firm believer that we need the good services that their office carries in trying to raise the contributions for charitable organizations, because funding sources are drying up left and right, and we need to be able to do that.

What Washington said and what Ms. Coward said, how do we -- I'm a firm believer, you don't pass or codify unenforceable rules and regulations, because if they can't be enforced, if there is no practical way, and that was the key word, there is no practical way of enforcing it, then don't codify it because we don't have the resources to enforce it in the first place.

And I'm also a firm believer that we don't come down with anymore unfunded mandates like Tallahassee has been doing for the last couple of years on municipalities or on governments.

My question is, what do we do or do we want to prohibit Women in Distress from picking up the phone and calling Commissioner Gunzburger and saying we're going to honor you as -- does she take that call in the office? Is she prohibited from talking about that in the office because she didn't initiate it?

COMMISSIONER DE JESUS: I think Mr. Collado offered a good compromise in that. They are going to contact your office because they are asking you as an elected official to support that, and I don't think that is what we're talking about, restricting government. Now if they contact the office and that Commissioner then says, “Yes, I would love to help,” and they be begin to assign their staff tasks to make phone calls, send letters, et cetera, et cetera, now we're into the utilization of government resources, so I think it's logical to say they are going to contact the elected officials office to request

assistance and that is their resources. That is not ours, up to that point. It's what that elected official does once they sign on board, “Yes you can use my name. Yes I will help you solicit contributions,” et cetera. So I'm certainly okay with that phone call coming up. That is a logical place to contact them. If they don't contact them at a social event somewhere, but then that elected official would not be permitted to utilize staff to solicit those funds.

MS. RORAPAUGH: And this is fairly common throughout government.

MR. COLLADO: It really is. For instance if I get a proposal from an organization wanting to distribute things to my kids, you know, I would say this is how we do it at the schools and provide them with the legal ease and the structure that I most work within, and that is information that I owe the public or whoever I represent. But then it's my reaction to that solicitation, that I would then go and meet after work or whatever, whatever.

MR. FINK: So if I understand you correctly, you want to somehow codify that it's okay to receive solicitations, but it's not okay to utilize any government resources in order to procure or -- there is a word -- we can not use any government resources in order to foster or encourage that fund raising. So it's okay for it to come in but it's not okay to utilize government resources of any nature in order to solicit funds for that charitable donation, and really basically, if I understood you, the only thing you're telling them is yes, you can use my name and I will work with you after hours or outside.

COMMISSIONER DE JESUS: I would just be cautious on that recommended language coming in that it's okay to receive solicitations. Maybe we should call it receive request.

MR. TEITLER: It's not receive.

MR. FINK: Or even to get that part out of it and just codify it by saying no governmental resources can be used, but we're not going to try to prohibit people from taking calls in their offices and their staff answering the phone. That is absurd.

MS. RORAPAUGH: And I don't think that was the original purpose. We're talking about the solicitation. If I'm lobbyist A and I get a call from County Commissioner X saying such and such a group is going to be honoring me, I need you to buy a table for $3,000, that is the crux of the matter. Should that County Commissioner be sitting at a desk in the county office or at their home or using a county phone? Should their chief of staff be directing who they are calling and how does the public know that that solicitation is made and the contribution honored.

COMMISSIONER DE JESUS: Commissioner Shechter then Mr. Wolfe.

COMMISSIONER SHECHTER: I just got an e-mail from Mayor Ortis that he is going to be running his 8th annual charter school golf tournament. It's an annual solicitation for funds for the charter school in Pembroke Pines.

Now my question there is, that is a solicitation for a charitable contribution to a city run agency, so how could you have the Mayor not make solicitation calls on behalf of a city charitable -- that would be really -- I don't see how it can be done.

MR. WOLFE: Well, it's up to whatever your city code is, but what we're talking about is, as a staff person who grew up in a staff environment, it's really easy that be in the hallways and say “Come to my boss’s reception next week. It's for United Way. It’s $500. I will see you there.” It's really easy to do because it's for a good cause. You get caught up in the moment and then you're going, I'm doing this in the office, and you

didn't realize it. And what we're trying to do is create a code of ethics that really tells people in this building and of course Commissioners and hopefully staff, what is good and what not to do, and it's like you might be doing a charitable or political contribution. You just don't do it in the building. You use your resources.

What is happening -- I will give you an example, which I don't know if it comes out of here, but a friend of mine who is a lobbyist, was in seeing some Commissioners, and by the time she got back to her office, she was solicited two or three times for political contributions by the various Commissioners she just saw.

MS. RORAPAUGH: Yes.

MR. WOLFE: Now I assume that came out of the fax machines from in here. Maybe it didn't, maybe it was innocent, but I think you're good lines are just to tell staff and Commissioners, its okay to do this stuff for the benefit of the community or for political contributions, just don't do it in here. Don't use county resources. It's a real clear guideline, so no one gets in trouble.

COMMISSIONER BRUNSON: I was just going to say, going back to what Mr. Schechter said, that certain cities that is different, because that is something that your city is actually hosting, so you, as an elected official, there are certain responsibilities you're going to have. That is like totally different. I think what we're talking about here is, if the United Way calls you and says -- if Mayor Ortis calls you and says the United Way is doing something, that is the difference.

COMMISSIONER SHECHTER: I understand, but if you are just making it across the board, it applies to everybody unless you say it doesn't.

COMMISSIONER BRUNSON: On the local level, I think you sort of know, just speaking personally, you sort of know that when it's on the local level, it means it's a city event, which is different.

MR. FINK: What we're trying to say is that if it occurs on the local level, it can occur on the county level.

COMMISSIONER BRUNSON: Right, but I was referring back to his comment that Mayor Ortis had called him with regard to an event the city is hosting, and how does he handle that.

MR. FINK: But the county could be hosting an event to raise money for libraries because they are so restricted in the budget they are going to have a fundraiser to fund libraries so they can open them up more days a week then they are allowed to under the new restrictive budget.

COMMISSIONER DE JESUS: Wouldn't that be part of their job as a County Commissioner? They are functioning as a County Commissioner in that aspect. It's not a private outside, third party entity.

MR. TEITLER: We can include it in here that it doesn't apply to Broward County charitable events. That is easy.

MR. COLLADO: If the Commission as a body decides that this initiative, with any organization is going to then be adopted as what we do for Broward County as a County, then I would say that language could be considered to then go in your function as a Commissioner, to do what needs to be done for that organizations satisfaction, but if I individually discuss organizations that haven't been acknowledged as the

Commission, to be part of us, in my function as a Commissioner, that is where the limitation should be.

COMMISSIONER DE JESUS: Let me ask for clarification on that.

I'm okay if it's a County sanctioned event.

We will use your example, Mr. Fink. They are raising money for libraries as Mayor Ortis is raising money for schools.

If what I'm hearing you saying that the County Commission as a whole can say that this non-profit charitable organization is now going to be a project of the County, therefore any elected official can utilize county resources to do that, I think we're now bringing in the third party into government, if you do that.

Is that what I'm hearing you say?

MR. COLLADO: It would be more amenable to something that is -- it would be within my job as Commissioner to work towards the cost as we -- as a County Commissioner feels. I don't know if I'm making it any clearer, but if it's something within our jobs as Commissioner Brunson said, that our city has stood behind it and the Commissioner is behind it like the library system, traffic, whatever, I don't know, then I have to work towards accomplishing that, but individual organizations, that is where the limitation should be.

MR. WOLFE: I think we're over thinking it. We're talking about political contributions and third party, not officially related to our office.

MR. FINK: I need to ask, the example you gave of standing in the hallway coming out of the restroom or the water fountain, “Are you coming to my bosses

fundraiser for Children in Distress?" Human nature says that is going to be done, and to try to codify it and prohibit that from happening in the building, does not, to me --

MR. WOLFE: Under state law, when I was in California, it was absolutely prohibited.

MR. FINK: I understand that. I don't think it makes a lot of sense because it's unenforceable.

MS. RORAPAUGH: No. It is enforceable.

MR. FINK: How?

MS. RORAPAUGH: State employees in California --

MR. WOLFE: You can go to jail for taking a check inside --

MR. FINK: We're not talking about --

COMMISSIONER DE JESUS: Let's not have an open debate.

If we could just have one person at a time, we can all discuss it.

MR. FINK: My question is, you and I are standing at the water fountain and you do exactly what you said, which is, you say to me are you coming to the golfing next week? Human nature says that is what you're going to do without even thinking about it.

MR. WOLFE: I would think it's an oops moment. That is not a good thing to do.

MS. RORAPAUGH: I think part of this is if these are standards we put together, and the County Commissioners and let's say their senior staffing have their annual training, they will learn not to do this, and I, as a private citizen or a registered lobbyist or a senior staffer on county staff, will be able -- if I'm pressured or asked to contribute to a political campaign or non-profit while on the premise, I will have recourse.

COMMISSIONER DE JESUS: I think what we're trying to accomplish, and I keep going back and reviewing different notes and thoughts from different conversations, it's almost an inherent responsibility for an elected official to represent their community and the charities within, so we're trying to accomplish that, but we're trying to separate it so that it's transparent and they don't use the influence of their office to raise those funds, utilizing their offices staff. Their time they are being compensated or their staff's time or their staffs resources, copies, letters, postage, et cetera. That should be the responsibility of the non-profit charitable organization that is asking for their assistance. In an effort to do that and protect that, so that elected official can still do good for their community and not be hamstrung by restrictions, I think there are some reasonable prohibitions that we have to expect and some penalties for violating those, and I think that is what I'm hearing. The rule is the rule, how we're going to enforce it -- you have heard me say all the time, I don't want to pass a rule that we can't enforce, but at some point, if you are violating that rule, you're going to get caught. There's been rules in place recently that people have been violating and recently they got caught and they are paying the price for that. We're not going to be the enforcement. Once we write this, we're stepping out and whether there is a compliance officer or not a compliance officer, somebody is going to be responsible to enforce these violations, and I think that through education, listen, we want to be able to do this. This is the right thing. Don't violate the guidelines for that or you're going to lose that privilege or you're going to pay the price for violating it.

So I would agree with Mr. Wolfe's statement that we might be over thinking this in the fact that we have already said we're willing to allow County Commissioners to assist

charitable organizations. In fact is that is what we believe they should do. However they shouldn't do it on county time with county resources, and transparency, so I don't know that we need to go beyond that, really.

MR. COLLADO: That is exactly it. That defines, I guess what we have all been discussing and saying in different ways.

MR. FINK: The key factor is whatever they do it should be transparent, and you're right, maybe Rob should try to codify something and put it into the draft.

MR. TEITLER: In terms of transparency, are you talking about filling out disclosure forms as we have done with a lot of the other sections?

MR. FINK: Would it be terrible if Commissioner Gunzburger got a call from Women in Distress and she agreed to do that and she filled out a form that said I have agreed to so we know she is doing that. Would that be an undo burden on her or her staff?

MS. RORAPAUGH: I have actually given some thought to this because it is -- it's difficult. One of the things that I have thought about is, maybe having the charity disclose it's contributions from said event, and having those disclosures filed with the County Attorney's office or whoever the appropriate reporting mechanism would be, having them electronically filed so I could look at charitable events for such and such a charity that the Commissioner was the key note speaker for and may have solicited for and see who gave to that event, and that is not unreasonable for the non-profits. We can give them, you know, we ask give them three months to do it, whatever, in order for these smaller non-profits to be able to meet that need and that requirement and it's

putting together a new mechanism, but I think that would give it the transparency and not make it overly burdensome to the Commissioner's staff to do either.

MR. TEITLER: My only concern would be this Code of Ethics is a controlled behavior in individual Commissioners, and here we would be creating some kind of restriction or regulation on the charity, and I think that would be a potential problem in this document. We need to more gear our direction towards controlling the Commissioners.

MR. FINK: We can not issue something that tells charities they have to do something.

MS. COWARD: I was going to say the same thing. I think whatever we do, the transparency requirement needs to be the responsibility of the Commission as opposed to the responsibility of the non-profit, so whatever we think is appropriate, the time table we need, it should clearly be the Commissioner's responsibility because they are the elected officials.

MS. RORAPAUGH: Then just simply have the Commissioners report what monies were raised at said event, on behalf of this charity.

COMMISSIONER DE JESUS: Well, I don't know that the Commissioner would know that. I'm okay with the Commissioner having to disclose that they have agreed to assist charity X in raising funds or agreed to be the key note or the honoree at that event in terms of that disclosure. I don't know that they are going to know who donated to that based on their willingness to assess or who didn't.

MS. RORAPAUGH: I would think that if I'm running a non-profit or charity and I have requested a County Commissioner to make phone calls, add their name, et cetera,

et cetera, to an event, if that County Commissioner said I will need to know who eventually gave money, I would comply. I would tell the County Commissioner that the transparency that we're looking for so people -- if there is a question or if the public wants to know, they can understand Mr. Morgan's company has sponsored three tables at such and such charitable event that honored a County Commissioner or that County Commissioner solicited.

COMMISSIONER DE JESUS: I hear what you are saying. I guess I am looking at it through a different lens in that -- honestly, I don't want to know who is giving to that charity. I should make the phone calls then. I want to keep that elected official out of that process and say, you know what, I believe in this charity. I believe they do good for our community and I want to help you do that. I'm going to do you that on my own time. I'm not going to use county resources, however it's almost like me saying, Ms. Rorapaugh, I have got this charity I believe in, a table is $500 and I would expect you to buy three. I'm not going to do that. I'm going to simply tell you I'm an honoree at this and I would appreciate your consideration. If that is $100 to you, great. If it's $500 to you, great. I don't want to be involved in knowing who is giving what to that charity, which then somebody is going to come back and say you knew exactly how many tables she bought, therefore you had a greater influence over Mr. Fink, because he only donated $50. I'd rather keep the elected official out of that. My thought.

MR. WOLFE: I agree with the Chair sort of on that.

I think if you want to entertain more transparency with vendors and lobbyists over procurement issues, I think you may look, like Deerfield is trying to do, put disclosures in their RFP process, where I am a vendor coming up before you and whatever process

there is, and I'm putting in my presentation and by the way, over the last year, I contributed X amount of money to these Commissioners and X amount of money to these charities the Commissioners wanted me to do. I just make a disclosure on that.

MS. RORAPAUGH: Don't we run into the same problem that we're asking charities to disclose?

MR. WOLFE: Well, no, because we're putting it -- we're asking the process of the Commission to do it because my reading in Deerfield, the vendors have to do that now in Deerfield and their failure to do so voids the bid process out, and not that I don't think that is that exciting information on the bid process, but I think just the transparency mechanism -- I'm just suggesting that as a compromise issue. That is what we're looking at.

MR. FINK: I would like to suggest that I think we have beat this one to death at this point, but just to respond to you, if I as an individual wanted to know how much the charity raised, then it's incumbent upon me to pick up the phone and call the charity and ask them.

MS. RORAPAUGH: The charity does not have to divulge it.

MR. FINK: That is the whole point.

MS. RORAPAUGH: They have to divulge it to the IRS.

MR. FINK: That is fine.

MS. RORAPAUGH: But what the Chairman, the conversation the Chairman put out there, the make believe conversation, and I want you to buy three tables, that is a conversation that takes place.

MR. FINK: But it's okay if he does it outside of the office. That is -- as long as he is not using county resources to do it.

MS. RORAPAUGH: Correct, but that is why we originally were talking about a complete prohibition from non-profit fund raising from County Commissioners, so that they would -- so that conversation would not take place.

MR. FINK: What is wrong with that conversation?

MS. RORAPAUGH: I'm working to get a contract to do something with the County and I'm dealing with the policy maker who is also telling me that the cost of admission is buying three tables.

MR. WOLFE: It's a separate issue.

MR. FINK: That is a totally different issue from what we're talking about here.

This is A, are we going to prohibit charitable contributions and fund raising, and I think the consensus here is, no, and all we want to do is make sure it's transparent and I would think that the simple thing to do would be if a Commissioner agrees to act on behalf of Women in Distress, that they file a form saying I have agreed to be an honoree and that is something on record.

COMMISSIONER DE JESUS: Any other thoughts or comments?

MR. COLLADO: I'm failing to see it as a completely, completely, completely separate issue, because as Joe Smith from the street soliciting three tables of $500 and Commissioner X soliciting the same amount of tables, they do have a different message if I will have business coming in front of the Commission in a couple of months. Although it is a separate issue, it's not necessarily separate. That is all I'm saying. I think we have to govern human nature by specificity and some guidelines that restrict --

MR. FINK: How do you define a guideline? I'm going to ask for four $500 tables and she is going to ask for three.

MR. COLLADO: And I think the clarity and transparency -- that is where it comes in. How did I benefit from it? Who did I approach and what did I receive from it? I think that is language we can talk about, but it's not entirely separate.

COMMISSIONER DE JESUS: In this case the elected official is not benefitting. The charity is.

MR. FINK: Right. We're talking about charitable contributions now, not campaign contributions. The only benefit is going to be the charter school or Women in Distress, and if I call whoever and say I'd like you to buy three tables as a Commissioner, and I don't do it on county property and I don't do it with county resources and I don't put it on county letterhead, that is my choice. The beneficiary is the charity. It's not going into my campaign contributions, and I don't think we have, A, the right, nor do we have the business, nor could we even enforce it, because we don't know when he did it because it's not on county property.

MR. COLLADO: And any violation or any benefits then have to be disclosed to the Commission.

MR. FINK: What benefits?

MR. COLLADO: If there are any.

MR. FINK: If you buy three tables for -- at the Women in Distress function, the benefit is to Women in Distress and you bought three tables or I bought three tables.

MR. COLLADO: I understand what you are saying.

MR. FINK: And that is where it is, because that is the only portion we're talking about right now, charitable contributions.

COMMISSIONER DE JESUS: Well, that is a good segway into the next one, campaign contributions and fundraising.

MR. TEITLER: Before we get into that specifically, I just wanted to make a couple of comments and lay the ground work.

Much like with charitable solicitations, campaign contributions involves some very serious 1st Amendment issues. I know the issues before this Committee are going to be whether to totally ban contributions from lobbyists, vendors and contractors or to limit it, and in that analysis, it's going to in involve 1st amendment issues.

COMMISSIONER DE JESUS: Why don't we see where the conversation goes and then you can opine based on where people are. Are you all okay with that? If somebody starts going down the road we're not allowed to go, you can opine.

MR. WOLFE: I'm just going to state my position on this and let you guys all discuss it, so you know where I am coming from.

I believe current state law is sufficient in terms of disclosure and transparency. I do believe, as I stated earlier, we could improve the process by making disclosure through the procurement process of political contributions to Commissioners. That being said, I believe with the limitations in the Florida law, $500 and the current practice of disclosure and any 1st amendment rights, it's absolutely appropriate and permissible for a County Commissioner to raise money for his or herself's campaign or for a third party political campaign. That is a right under the law and under the 1st amendment.

However, like I said earlier, I think we could put some disclosure on the

procurement process, but I do think we always get back and always reinforce what we're saying with prohibiting county resources being used in that effort and make it very clear that solicitation or receipt of campaign contributions be banned on county property. That is my position.

COMMISSIONER DE JESUS: Ms. Coward.

MS. COWARD: With all those representations made by Mr. Wolfe, that we do allow it consistent with current law and just be clear on our disclosure requirements and be clear in our prohibitions for using county resources in the county building.

COMMISSIONER DE JESUS: Let's talk about some disclosure requirements. Mr. Fink.

MR. FINK: Is this where we would start to put in penalties?

COMMISSIONER DE JESUS: It's a separate section here.

MR. FINK: I know penalties are a separate action, but do we add penalties as an umbrella or do we have to have different penalties for each section that we -- I mean, how do you want to do it from a logistical standpoint, because I think I agree whole heartily with everything he said, but what we don't have right now is penalties and violations.

COMMISSIONER DE JESUS: I think if we stay on course where we've been, we're talking about the rule and then we're going to go back and talk about the enforcement for the violation of those rules, so I would like to stay consistent if that is the will of the Commission. What I had like to do is rather than just say, you know, so long as they meet the disclosure requirements, I'd like to talk specifically about that so some of that language can start getting crafted in the code. What are we talking about?

Obviously there is a state requirement for disclosure. Is that what we're talking about, and they are good there or are we talking about something else? There is a state requirement for disclosure and we want an item that came up earlier, that would be separate disclosure if that person does, did or is doing business before the Commission. What are we talking about then?

MR. WOLFE: As I suggested earlier, if it's the will of the Commission to add more transparency with political contributions, I think you address it in the procurement selection process by instructing Commission's staff, when there is a RFP process and when these -- and I'm not an expert in this stuff. I have never done procurement, but when the documents, the public documents are provided, the presentation is made, disclosure is made. "You know, I'm Bob Wolfe, I'm representing company X. Mayor Keechl is a very good friend of mine. I contributed to his political campaign last year. I gave X amount of money to those other Commissioners." That is part of the process. It's just like -- I just want to turn a light on a little bit.

COMMISSIONER DE JESUS: Does that not bring us back to the comment about, are we permitted to require -- to mandate behavior of someone outside of the County Commission or would that be the County Commission's responsibility?

MR. TEITLER: The onus of this code needs to be on the Commissioners, the onus of whatever behavior we're trying to bring.

MR. FINK: Isn't it now -- am I nuts or if you contribute over $100, as I understand it, if you get a contribution of over $100, don't you have to disclose things more than if you received less than $100? I know that prohibition is $500.

COMMISSIONER SHECHTER: You have to mention what business they are in if it's over 100.

MR. FINK: Correct, that is an additional disclosure for $100 or more.

COMMISSIONER DE JESUS: That is just on your form.

MR. FINK: What disclosure, and I'm asking -- what disclosure would we add to bring more transparency to it that isn't there now?

COMMISSIONER SHECHTER: They contributed to your campaign. The Commissioner would have to make that disclosure at the time of the RFP, at the time of the selection. I think that is what Bob is discussing.

COMMISSIONER DE JESUS: My comments on that the last time this came up was if -- and I'm okay with it, if I ran a 06 campaign in 10 or 11, I'm sitting at a Commission meeting and Mr. Wolfe is before me on an item I'm getting ready to vote on, well, every item on that agenda that I'm getting ready to vote on, I would have to go back to my 06 campaign contribution reports and review those donations, line item by line item to find out if Mr. Wolfe or a company he is associated with contributed to my campaign, to disclose that before I vote, and I don't know that that is a realistic or a practical expectation because of four year terms and are we saying it's within four years or maybe I'm in an election year right now and you contributed yesterday.

Do did you see what I'm saying? It's just different in terms of the timeliness.

MS. RORAPAUGH: As we do this discussion, I'm sure that we want to do this in a way that policy makers can comply. I agree with you. We also have to do this in a way that the public is reassured that they will have full knowledge, and ultimately this code of ethics is about the public and public service, and you know, that is why

transparency is not just a word. It is a process, and it is a process that needs to be accessible to the general public, and whether it's the vendor saying these are the political donations I have done to these policyholders, or the policyholders saying, and if you have no modern technology, you should be able to do this. Okay, Bob Wolfe spits out what you have given to me in the last four years. Now I can't do that as a citizen on the Supervisor of Election's website right now. I can't do that. I have to print out every page of every report and go through it.

COMMISSIONER DE JESUS: That is what the elected official would have to do, and I'm okay with that, but what we keep hearing is we can't dictate behavior of someone outside of the County Commission, so I can't tell the Supervisor of Election, change your PDF process to an E search.

MS. RORAPAUGH: But we could say the County Commission, through the County Attorney's office, maintain a searchable data base of contributions that they have received in their campaigns, as an additional reporting requirement.

MS. COWARD: I was just going to say, I think the four years is too broad, to expect the County Commission to go back and research it. For me it would be something recent, and recent can be defined as an occurring campaign and throughout that campaign or maybe a year or two tops, in my mind, but four years ago, I think is asking too much for a Commissioner to go back.

MR. FINK: One year? Two years? Six months? What is realistic?

MS. COWARD: I'm thinking a year is definitely realistic. Two, I can accept, but anything more than that is unrealistic.

COMMISSIONER DE JESUS: I like Ms. Rorapaugh's recommendation that, if I have got to submit my campaign contribution reports to the state through the Broward County elections office, why can't we require that same document to be submitted to the county and have the county come up with a data base, whether they scan it -- there is all kinds of software, but searchable. No different -- I think it's unrealistic. You're talking in some cases, thousands and thousands of contributions that you would have to go through line item by line item, and try to decipher whether they gave their name, their companies name, an LLC's name, a partnerships name. You could easily miss that. Why not give that accessibility to the public? Its accessible now, but its cumbersome now.

Listen, I have voted on issues and I have had the public tell me how much that person has given to me. They can get to it, and that is okay. There is nothing illegal about that. They know more about my campaign contributions then I do, and that is okay. I just don't know that we should expect an elected official to go through years and years, but I agree wholeheartedly with that disclosure.

MR. WOLFE: Why don't we put that verbiage? I think putting that in, requiring a Commissioner to submit it to some entity in the county here and scanable on the website, any of us can go on the website and pull up how much money Bob Wolfe somebody on the County Commission --

COMMISSIONER DE JESUS: I need to stop the conversation briefly and we're past public comment time certain.

Let me just ask, is there any member of the public here wishing to give testimony or comment to the ethics commission?

With none being heard, we will resume our conversation.

Mr. Fink.

MR. FINK: At the beginning of your statement, you said that, if I understood you correctly, that they have to now disclose who the Supervisor of Elections -- which then goes to the state, and then it is being disclosed right now.

I think what I'm hearing is we're asking the IT department to come up and work with the Supervisor of Elections, to make that a searchable data base, rather than --

MR. WOLFE: No. I think have them give it to the County so maybe someone in the County Attorney's office, the Auditor, the County or the County Administrator and it's scanned in. That is easy technology. Then the onus is on the individual requesting the data and it's public.

MS. RORAPAUGH: Frankly, I believe at this point, at least on the County, I don't know about the cities, but for County races, you are required to file electronically now. It's just that independent agency, the Supervisor of Election's office has, does not put it, leave it as a searchable data base.

COMMISSIONER BRUNSON: I just want to say, is this something that is going to have a price tag attached to it or is it something with man power because one thing you don't want to do is have something that is unfunded, to pass on something, put something in this, what we're going to present that is going to require a whole bunch of money for them to do. So, you mentioned something about technology. Is this something they are going to have to some spend some money on because of the way the economy is with the budget? We don't want to put anything in here that is going to cause resistance over a money issue.

COMMISSIONER DE JESUS: Ms. Cepero, can you speak to whether IT has the technology to do any searchable data base or whether that is something you need to look into?

MS. CEPERO: I would have to look into that. It seems logical that it would not require a lot of conditional resources, but before I speak out of turn, I would like to have the opportunity to talk to our IT staff.

MS. COWARD: I would suggest putting it in there and then you can readdress the issue, if we find out if has a price tag on it.

MR. TEITLER: Just so I am clear, the idea that we have is that the Commissioner at the time that he or she submits the disclosure to the Supervisor of Elections, simultaneously discloses to another county entity such as County Auditor or whatever, and then through that, that would be put on a data base that would be searchable.

MS. CEPERO: Correct.

MR. WOLFE: Correct.

MR. COLLADO: For my own edification, not being from this world of politics, why does contributions over $500 have to be accepted by a resolution? What does that mean?

COMMISSIONER DE JESUS: That is separate policy. What you were given a copy of, that is somebody giving a contribution to the County, not to a County Commissioner. If I want to donate to a specific program, if I want to donate $500 or more to libraries, as an individual, that is what that policy that you were given addresses. It doesn't have anything to do with the County Commission.

If I'm incorrect in that, staff, please correct me. An elected official is not permitted to take greater than $500 from any individual or entity.

Any other thoughts or comments on campaign contributions and fund raising?

MS. RORAPAUGH: I know that we're restricted by where our purview is, but I think we should give more thought and come back to this discussion at a later date on fund raising.

Today, if you are running for federal office and a person raises money for you, you have to link that contribution to that person. It's called fund link, and our elected officials here in Broward County are very popular and politicians all over the state are excited to have their support, but that again is, where do they go it raise those funds. They go to county lobbyists. They go to registered lobbyists in the county, and that is where the publics concern lies, so I don't know what the answer to it is and there might not be an answer, but at some point I think we need to look back and readdress the County Commission's fund raising for other political entities and how do you make that transparent. The state code does not address that. The County Code does not address it. That again is another area where the public has expressed concern, and I think particularly after we have seen what has been in the front pages in our local newspapers with political giving, whether it's Rothstein or the eye doctor down in Hollywood or what not, this is going to be an area of public concern, and it's one -- I don't know how we give the Commissioners guidelines on it, but there has to be a solution so the public will know.

MR. WOLFE: Again, I think I know it's a tough issue, particularly in light of recent developments, but you absolutely have a right to solicit on the 1st amendment, political

contributions. I just think if you want to make it more transparent or tied into procurement, in Commissioner X or I have solicited him or do something like Deerfield has done, but I mean, I went to political fund raising events. I remember one my County Commissioner did and I participated. I wrote a check, and no, I was laughing at some of the folks in the room because they could careless about the issue. They were probably courting favor with my Commissioner. Well, that is my Commissioner's right to raise money for something he feels that he wants to do and I'm supporting that issue and his efforts in it, and if somebody is there writing a check for another reason, well, I guess that is a business decision. It might be smart. It might be dumb, but as long as we're providing some transparency or trying to do something, I think that is what the public wants us to do.

MS. RORAPAUGH: Right. How you do it is the question. How you do it? I don't want our County Commissioners to stop raising money for other political entities. I think it important they get involved in the Governor's race or whatever their favorite cause of the day is, but I do think that the public has a right to know that they are involved and I know on a federal level which has a huge enforcement mechanism through the FEC -- I mean currently, if I raise $10,000 for Debbie Wasserman-Schultz, every check that I bring in has a note that I brought that in. I'm not sure we can do that here. We don't have the budget, the mechanism, the man power, but that is how they handle it on a federal level. So, you always know who is bundling those checks.

COMMISSIONER DE JESUS: Any other thoughts, concerns, comments relative to campaign finance or campaign contributions?

I'm going to make a recommendation that, being it's 11:15, unless you all think that procurement selection is going to go in 15 minutes, I would recommend at this point we move on to other business, talk about future schedules --

MR. WOLFE: One point of order.

COMMISSIONER DE JESUS: Mr. Wolfe.

MR. WOLFE: It's my understanding, and I haven't heard directly from the Commissioner, but I understand Commissioner Al Jones is going to be making an appointment to this Commission, and I wonder if the County Attorney's office has gotten any paper work yet, or if they have not, maybe Bob could give him a call and see where he is at on that, because of the calendar and the lack of Commission meetings, I want to make sure that -- he might not even know how to do it yet.

MR. TEITLER: We generally get all of that directly through the County Commission aides.

MR. WOLFE: Can we check with the Commissioner directly? I understand he has asked somebody and he has accepted. I don't know if they can come in and sit in, but we should check with the Commissioner.

COMMISSIONER DE JESUS: Ms. Cepero.

MS. CEPERO: We will follow-up on that. I have not heard anything to that effect yet.

COMMISSIONER DE JESUS: If that is the case, it's got to be put on the next agenda and ratified before they can participate.

MS. CEPERO: That is correct.

MR. WOLFE: That person --

MS. CEPERO: They could sit in as members of the public.

MR. WOLFE: They could sit in. That is the reason I am suggesting it. If that is Commissioner Jones' pleasure, we should at least invite them in, if we're having these meetings next week and such.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Since we started a half hour late, can we extend, make a motion to extend by a half hour to get some more work done.

COMMISSIONER DE JESUS: I cannot but I will certainly turn that over.

MR. COLLADO: I would have to excuse myself. I have a meeting 12:00 I need to get to.

MR. WOLFE: I need to get to work too.

COMMISSIONER DE JESUS: Those of us who came on time put in that 30 minutes early.

MR. COLLADO: I do apologize. I did have it in my calendar for 9:30.

MR. FINK: You don't have to apologize. We were all late.

COMMISSIONER DE JESUS: We were not all late. All right. Back on track.

We have a meeting next Wednesday.

MR. FINK: We do?

COMMISSIONER DE JESUS: We probably set that the same time we set the 9:00 that you didn't --

MR. WOLFE: Let's make sure we have a quorum though.

COMMISSIONER DE JESUS: We have a quorum though according to the original commitments of 12/16, but that was for 10 am. We will not have a quorum if we have to start at 9:30, so it will be 10 to 11:30, on 12/16.

MR. WOLFE: Everybody, write this down.

COMMISSIONER DE JESUS: If you can not meet that commitment, and Ms. Cepero, if you will contact those that aren't there, please call so we don't come without a quorum.

MR. FINK: So it's 10 to 11:30.

COMMISSIONER DE JESUS: And Ms. Cepero will go over with those who confirmed at this point.

MS. CEPERO: I have Howard Bakalar, who is not here who I will follow-up with. We have got Robin Rorapaugh. Ken Fink is available, Washington Collado, the Chairman and Bill Scherer, who I will follow-up on. If there is anyone that I have listed, I have mentioned that is here today that said they could be and cannot, please let us know.

MR. WOLFE: I think I can be here. I have got to request the time off.

MR. COLLADO: The only thing I want to say is, that is the last week before the vacation, and unless I have emergency issues back at school, but I will let you know the day before, at the very least.

MS. CEPERO: That is six, the minimum we need for a quorum.

COMMISSIONER DE JESUS: January we have 10 am, 12/16. That is next Wednesday.

MR. FINK: Can we make a motion now to extend it to 12, so at least we could get two hours in.

COMMISSIONER DE JESUS: I have to go.

MR. FINK: Not today.

COMMISSIONER DE JESUS: Oh, if everybody is available. Do we have enough here to -- we don't have a quorum here today, do we, that is going to be here next week?

MS. CEPERO: No.

COMMISSIONER DE JESUS: I'm okay going to 12, if everybody else is.

MR. FINK: I mean if we know in advance we're going to go to 12, then there won't be any conflicts.

COMMISSIONER DE JESUS: So it will be 10 to 12, on 12/16 we had a regularly scheduled meeting for January 13. We asked Monica to send out e-mails looking for other potential dates. We have quorums available on both January 6 and January 20. I'm going to set meetings for both of those dates at this point, since we have a quorum and confirmation that the majority of us can be there, January 6 and January 20, at 9:30. So we will have three meetings in January scheduled, a regular meeting of January 13 that was set initially. The additional two that we're adding, 1/6 and 1/20, and what he will say is, if we get enough done on 1/6 and 1/13, we can always cancel 1/20 if we have completed our work, but I'd rather have it locked into schedule since we have a quorum. A number of people said they could be there and then withdraw it if we have to.

MR. COLLADO: Now the one on the 20, you said it was 9:30, but the one on the 13 is at 9?

COMMISSIONER DE JESUS: 9:30 as well. We're back to 9:30. We just moved today's to get the additional speakers in. Our regular meetings are at 9:30.

MR. COLLADO: That is what I thought.

MR. FINK: Could we look to keep a nose to 12 if we have to? If we're here --

MR. WOLFE: I think we're making progress.

COMMISSIONER DE JESUS: I think by adding those days we're okay.

MR. COLLADO: Mr. Chair, the thing with me, the second Wednesday -- I have a 12:00 meeting with the zone principles that I cannot miss, the second Wednesdays.

MR. WOLFE: And I'm probably going to take off some of those days because I have to be at the Property Appraiser in Pompano Beach, with our outreach stuff.

COMMISSIONER DE JESUS: Ms. Cepero, if you could recap on meetings and take-a-ways please?

MS. CEPERO: Okay.

What I have is an additional meeting next Wednesday, December 16, from 10 to noon and I will send out an e-mail to remind everybody about that.

And then for January we have two additional meetings, on January 6 and January 20, and in addition to our regularly scheduled meeting on January 13, and those three January meetings will be from 9:30 to 11:30, so the only difference in our meeting schedule will be for next week, which will be 10 to noon. Again, I will send something out to remind everybody.

And the take-a-ways from today, I'm going to go ahead and scan all of the information that was given to us and send it back out so you have it electronically, that is the Broward Workshop information. Also, I had an article that was requested of me to distribute today, which I will send that out as well and I will scan it as well. Mr. Fink had asked I distribute this. It will be electronically as well.

MR. FINK: It was Angelo Castillo's article from two weeks ago. I don't know if everybody saw it.

MS. CEPERO: I have here a note about the cone of silence, but that information has already been provided to you electronically, so I wasn't going to send that back out. And then as far as really additional take-a-ways, it's just my research of the price tag, if any, on the searchable data base requirement, and the information that Mr. Teitler will be adding to the language to the draft, which we will get out to you in advance of Wednesday meetings because you will be using that as a working draft.

COMMISSIONER DE JESUS: Any other business?

Mr. Teitler will get us the draft by Monday. Mr. Fink and then Mr. Collado.

MR. COLLADO: Nothing.

MR. FINK: Do I see in here, on the agenda, that we're going to discuss the cone of silence? Can we add that to the agenda.

COMMISSIONER DE JESUS: We can discuss it under other business, if you like?

MR. FINK: Could we add it to discuss the cone of silence because of the point I brought up today, because right now, the way it exists --

COMMISSIONER DE JESUS: I think under procurement we're going to get into that discussion.

MR. FINK: Okay. So that is where it will fall?

COMMISSIONER DE JESUS: Yes.

MR. WOLFE: And did everybody, all the Commissioners see the editorial on Mondays paper, the Sun-Sentinel on the Florida gift law? Maybe staff could provide that to the Commissioners.

MS. CEPERO: Could you say that one more time? I'm sorry.

MR. WOLFE: I believe it was Mondays editorial by the Sun-Sentinel, on the inadequacies of Florida's gift law and their recommendation is, just in case some of the Commissioners didn't read it.

COMMISSIONER DE JESUS: I need an approval for the minutes of 11/12/09, the revised minutes. I apologize.

MR. FINK: I move we accept the minutes as revised.

MR. WOLFE: Second.

COMMISSIONER DE JESUS: Moved by Mr. Fink seconded by Mr. Wolfe. All in favor signify by saying aye. Any opposed, same sign. Minutes approved. Any other business before we adjourn? I thank you all for your time.

We will see you next Wednesday at 10 am. Thank you and have a great day.

(There being no further business to come before the Ethics Committee, the meeting adjourned at 11:23 a.m.)

(A copy of the audio recording of this meeting is available upon request by calling Document Control located in Room 336U, at (954)357-7297.)

Verbatim

Broward County Ethics Commission

December 16, 2009

MEMBERS PRESENT:	Commissioner Neal De Jesus, City of Cooper City, Chair Howard Bakalar Alfreda D. Coward, Esquire (Telephonic) Washington D. Collado Kenneth Fink Robin Rorapaugh William Scherer Robert Wolfe, Jr.
ALSO PRESENT:	Monica Cepero, Assistant to the County Administrator Robert Teitler, Assistant County Attorney Glenn Miller, Assistant County Attorney Lois Wexler, Broward County Commissioner Arthur Sinai, Member of the public James Weldon, Member of the public Jean Russo, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 10:01 a.m. on December 16, 2009, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

(The following is a near verbatim transcript of the meeting.)

THE CHAIR: We're going to go ahead and call the meeting to order. Good morning, everyone. Thanks for being here. We are right at a quorum, so it's important and imperative that everybody who confirmed showed up, and I appreciate you helping us out there. May I have roll call, please?

(Roll Call was taken by the real-time reporter.)

Thank you. I believe -- is it Commissioner Brunson is calling in by phone? Ms. Coward? Ms. Coward will be calling in by phone, so if you hear the beep she will be beeping in whenever she gets with us. We're continuing our working draft and last meeting we finished right after campaign contributions and fundraising.

(At this time, Ms. Coward participated by phone.)

THE CHAIR: Good morning, Alfreda, we've already got started.

MS. COWARD: Great.

THE CHAIR: We're now under procurement Selection Committees and the thoughts and comments that were given prior, as we talked through that process, were everything from total prohibition or limits to everything from total prohibition or limits, to disclosure by staff. I'll open the floor for comments on the procurement Selection Committee. Mr. Fink.

MR. FINK: My position I stated it widely, so I mean my position is that, especially from everything I've been reading, and all of the research that I did, that we're probably one of the few, if only, entity, that has elected officials sitting on procurement committees; and I think it behooves us to correct that problem and my recommendation is that no elected official be allowed to sit on a procurement committee and that it be left to staff and the professionals to do that job and that the Commissioners have the right as sitting as a Commission to question the back-up, to question staff and the procurement committee that made those selections and then in fact vote on it in that manner. The only exception to that rule would be an instance where a particular commissioner would bring to the table a degree of expertise that was not available from any other source including an outside pro bono expert, which is how other communities, cities and counties do it. And I'm done.

MR. BAKALAR: I just didn't want us to forget -- again, we're talking about the Commissioners but there is every bit as much opportunity for staff to be -- to have all the conflicts that we worry about with Commissioners when we're talking about selection negotiation. I don't know if we should be looking at an all out prohibition. I think maybe what

we should be looking at is limiting the amount of Commissioners who sit on selection negotiations committees. I also worry about the degree of expertise as you say that, because again, how do you define "degree of expertise"? We heard Commissioners talk about their expertise in different areas so they felt themselves to have expertise but with that, I'm an expert in a lot of things. I think people would disagree with me. I'm a self-defined expert. And then back to Bill's comments of basically talking about a Cone of Silence; should we just expand the Cone of Silence then, if we're talking about Commissioners not participating, that the Cone extends to them even though they don't sit officially on the Selection Negotiations Committee but that if there is procurement out, that it automatically extends to them also? So those are my comments.

MR. SCHERER: I would like to see a draft of the change that would eliminate Commissioners from serving on it, that would run parallel to the procurement draft that we have here, so we can get idea of what that looks like. Seems like on some of these -- this document, our draft document is evolving. We haven't taken a final vote and it seems we ought to have an alternative proposal that underneath it, that might be just the opposite. For instance, I would like to see what a draft would like that excludes Commissioners from sitting on Selection Committees, a total ban. And perhaps have -- I don't think any Commissioner ought to sit if they are particularly experienced in some area -- I don't think they ought to sit at all. I would like to see what it looks like. It seems like an exception could be in a very important decision, for instance, the Convention Center Hotel discussion, and in that situation we could propose that the Commission itself would have to vote by a super majority to have all of the Commissioners serve on the Selection Committee along with staff, for instance, something like that, you know, on the extraordinary set of circumstances. Otherwise we ought to consider a total prohibition and then we get back to having a code of -- the same Code of Ethics, Cone of Silence that applies to the Commission, apply to staff, which is an issue that we kicked around here and we asked the Legislature to help us with. I would like to see what that would like, total ban with some reasonable provisions in there and get a look at that.

We also could consider and it dovetails back in to honest services, or the dishonest service provisions that we're talking about, and that is that they serve -- that any service, if the commission decides to have it on their own that they serve on that Selection Committee honestly and not for some hidden quid pro quo to people that support them or support their causes financially, whether it's lobbyists or vendors or others.

THE CHAIR: Ms. Coward.

MS. COWARD: Yes. (Inaudible.) I'm concerned that (inaudible) because of procurement; however, I don't think we should over do it. (Inaudible.) Can you hear me?

THE CHAIR: We can now.

MS. COWARD: My recommendation would be similar to Howard's in that we simply -- instead of excluding the Commissioners all together, instead limit their involvement. We had a speaker that came in and he told us about all different counties and how many of them have Commissioners sitting on them. And I don't know if anybody recalls, and I posed a question to him, of all the other counties that no longer have allowed Commissioners to sit, does the appearance of impropriety still exist, and he indicated that yes, it still appears of impropriety with the Commissioners, having influence on the staff. There still appears to be impropriety as it relates to staff members. So clearly eliminating the Commissioners alone, that is simply not going to fix the problem, which is the appearance of impropriety. So I think we need to address the issue itself, (inaudible) limiting them and maybe by extending the Cone of Silence and maybe limiting the Commissioners involvement. Nothing further for now.

THE CHAIR: Thank you. Anybody that hasn't spoke? Mr. Fink.

MR. FINK: Number one, Howard, you spoke about staff. If you remember, we cannot discuss staff. That's not our charge. And we have been told that repeatedly. Number two, one of the things we did, and I'm not sure if you were at this meeting or not, but we asked the State Legislature to go ahead with a local Ordinance --

MR. BAKALAR: Right. I'm not talking about staff. I'm talking about the mixture. I'm not trying to draw a code towards staff. I'm talking about the Commissioners. What I'm saying is our job -- Commissioners by definition, bad, staff by definition, good, we're not x-ing out the possibility of impropriety by just saying, Commissioners are prohibited from participating. That's what I was getting at. I'm not trying to draw any type of code.

MR. FINK: Okay. There is no question that target would be changed if that is in fact what you are alluding to, that if we remove Commissioners then the potential exists that the lobbyists would then go after staff in order to influence their vote. Okay?

(Mr. Collado entered the room.)

MR. BAKALAR: They do now. Why wouldn't you think they do that now?

MR. FINK: I do think that they do now, but the fact of the matter is all the expert testimony that either I have gathered or that we listened to and that we have referred to over the past several months shows that we're the only entity in the tri-county area that allows Commissioners to sit on procurement committees. We have had testimony from professors, we have had testimony from city managers and procurement people and people who have already

worked within the procurement, County procurement process, who have said you do not need Commissioners to sit on the procurement committee when you have professionals that you are paying to do these things and you also have the ability to hire pro bono or to solicit pro bono expertise from outside the county to sit on these procurement committees unless and only when a commissioner brings a degree of expertise that is not available from any other source. And that was the point that was made. The fact of the matter is that the perception exists that as long as the Commissioners are sitting on the Selection Committees, that perception, which is to people who believe that, their reality that were in this "pay to play," society that's operating as the County Government. And if we're the only entity that operates that way -- and I believe this is the only entity within the county that allows that, because in speaking with Sam Goren who is probably the pre-eminent City Attorney in the County, he works for no other entity that has elected official sitting on their procurement committees. So if they refine their process at the community level or at the civic level or at the city level to the point where no elected official sits on Selection Committees, why are we allowing it to continue here when our charge is to help eliminate the perception that we're in a "pay to play," society?

MR. BAKALAR: I hear you, but again I believe public perception gravitates only towards elected officials. It doesn't mean that impropriety isn't or can't be happening at the staff level. I believe that we should be drawing a code tightly enough to ensure that Commissioners aren't tainted by communications with lobbyists, that kind of thing, but I don't believe that it should ^ be ^ been an all out ban because I don't believe that the public thinks in terms of staff as much as the elected officials but the reality is staff is just as open to --

MR. FINK: But you're going back to the same thing I said at the beginning, which is --

MR. BAKALAR: We each have a vote.

MR. FINK: We have been advised since day one that we can't be concerned with staff.

MR. BAKALAR: No. I'm not drawing a code for staff. You are misunderstanding again. So I think we should probably leave it at that.

THE CHAIR: Yes. Rather than going back and forth so that we can keep some dialogue from people that want to speak, let's hold that, but I think I heard Mr. Bakalar clearly; he was referencing staff, not recommending that we draft a Code of Ethics for staff. Mr. Wolfe, did you have something?

MR. WOLFE: My Commissioner, the Mayor, is adamant on remaining on Selection Committees, he campaigned on it, and that is part of something he thinks he is entitled to. And I haven't spoken to him this week because he is on vacation. We had numerous discussions

between the two of us on this issue. I think we ought to explore all different options on it; however, my quandary, which I brought before, I'm still perplexed over it, I do have a problem with removing them all from committees because I don't know -- necessarily trust staff's (inaudible) and unless we can -- unless I'm convinced that there are some efforts to instill ethics throughout the whole structure here, I don't know what I'm going to support. And I quite frankly, I'd rather trust my elected official, my Mayor, than some of the staff in this building, so -- because I just have more of a comfort level, but it's a problem that we have internally.

MS. RORAPAUGH: Well, I'm inclined to think that policy makers do not need to play a role in the Selection Committees. It has not worked well. And particularly on some very large projects where every Commissioner sits on the Selection Committee; I think the hotel is a prime example. It ends up not happening. The problem with staff being -- we hire a County Manager in this system of government, that County Manager hires departments heads, those departments heads sit on these Selection Committees; if there is a problem with staff it needs to be addressed from the Commission to the County Manager. There is a prohibition from County -- from Commissioners obstructing the work of County employees right now, that was put in the last Charter election. And what we're really missing here, which is something we talked about and around, is the fact that there is no Inspector General in Broward County. If I'm a contractor and I'm going after a contractor -- and that bid process I think is wrong -- ultimately I can go through a process, but there is not an independent inspector of that process. And on the federal level, the Inspector General system is exactly where you would go -- if -- whether it's a Department of Defense contract, or education contract, no congressman or congresswoman sits on a Selection Committee, but if there is money appropriated and the contractors fear that they have not been given a full and fair hearing, for in the bid process, they go to the Inspector General. And in a compromise for an Inspector General in 2000 we created the County Auditor and the County Auditor does a lot of things but it still does not -- that particular department has not exercised its ability to go into -- to basically look at this situation that we're grappling now, which is public perception, and it is the public perception that you have to "pay to play," if you want to do business in Broward County you have to hire lobbyists. And there is nothing wrong with lobbyists. They provide expertise of projects and subject matters that County staff and/or County Commissioners and their staff don't have the time to do, but it has become clear that the public, and in private, a lot of the Commissioners think that this has gotten out of hand.

THE CHAIR: I want to try to bring some of these thoughts together and go back to the initial discussion on this issue. I think when it first came to the table I was more inclined to probably consider having a minority number of Commissioners on that selection process. Since that time, in doing further research and speaking with all but one elected official, County

elected officials on the matter, I'm not so sure that that is the best thing at this time. I would agree with Mr. Scherer and Mr. Wolfe that all options should be on the table at this time, to see what the most efficient and effective way to manage the procurement process is. With that being said, many of the reasons that I have been given as to why the County Commission needs to be on the procurement process, frankly I can't buy. And Ms. Rorapaugh, I would agree with you that that is a County Administrator issue. If staff is incompetent, incapable, all the different descriptives that I heard, then that County Commission needs to direct the County Administrator to take care of that issue. That shouldn't become a County Commissioner's job. If a receptionist in incompetent or irresponsible, the County Commissioner doesn't become a receptionist. They ensure that that policy is changed so that they have proficient employees. And I'm not saying that staff is not. I don't have any personal knowledge of that. Regardless, if we're going to have a total ban with exceptions, I think it's going to take some pretty in depth dialogue to define what those exceptions are, because they will creep into having no exceptions at all. They will find a way to get in on something that is important to them. As an elected official in my city, I don't deal with contracts near the magnitude that the County does, but the process is the process. And I'm more than comfortable in being able to talk with staff, talk with the city manager and research the program, the service, to feel confident and comfortable in casting a vote on that issue without being part of that process.

MR. COLLADO: Me too.

THE CHAIR: The one thing at this point that I would insist on is that that Cone of Silence is applied both ways. It was enlightening and astonishing to me that we would have a Cone of Silence that says you can't talk to me but I can talk to you. In effect, there is no Cone of Silence. So that Cone of Silence, in my opinion, needs to be applied both ways. And lastly in addressing some of the comments about asking the Delegation for assistance in this matter and applying it to staff; one, just about every County Commissioner I spoke to said they fully intend to require that this be applied to staff, whatever it is that we craft and adopt. And I certainly -- is in their prerogative and right. And I recommend that as the Chair. But we received a letter this morning -- I received it this morning when I came in, from the Delegation, asking for a couple of the things; and one of things they're asking for is prior to us going before them to -- one, they're asking for an appointee to help craft the language for the Bills we're asking for assistance on, two they're asking that we find a sponsor for that Bill prior to going before them. The date they hear Bills, Tuesday January 5th. So there still needs to be a sponsor to even consider those Bills that we're asking them to consider.

MR. FINK: Point of information.

THE CHAIR: Yes, sir.

MR. FINK: A sponsor means an individual from this Committee, or an individual --

THE CHAIR: No. From the Broward Delegation. Mr. Collado.

MR. COLLADO: And I'm like some of the members of this group, I don't necessarily know where I'm going to come down on this, but for the purpose of clarification; what was some of the top reasons for Commissioners to want to be in the procurement, that you were giving.

THE CHAIR: Some of the public statements that you read said that the "buck stops here, I represent my constituents, and therefore I need to have the final decision as to where those dollars are spent. Staff doesn't have the expertise or the knowledge or the competency to thoroughly vet these vendors and I need to do so." Those are some of the comments I heard. Ms. Rorapaugh.

MS. RORAPAUGH: To augment what Chairman is saying, a lot of the Commissioners do feel strongly that this is part of their responsibility as County Commissioners, but the fact of the matter is the County Commission is the policy setting body for our government. We have a manager system, a government, and it's the manager, it's the County Manager and staff that takes care of the day-to-day "nuts and bolts," of County Government. Now if the County Commission wants to change that, they have a right to do that; they can put it before the voters, but at this point those changes haven't been made. Secondly, at one time the Commissioners were appointed to the Selection Committees by whoever the Mayor was or the County -- whoever was the head of the Commission that year. That system has dissipated to where literally it's asked by the County Commission, who wants to be on the Selection Committee.

MR. COLLADO: Is it then the feeling that some of the Commissioners that the system in place and structure in place is not strong enough for them to be satisfied in such a way that they wouldn't have to be part of the committee?

THE CHAIR: I can't speak for them. You would have to ask them.

MS. RORAPAUGH: One thing I will say, a Selection Committee comes up with options for a governing body to vote on. On all levels of government there is a procurement system that basically brings in front of the policy holders choices, and then they vote on the choices. That vote in public, carried on television, et cetera, et cetera, whether with a public hearing, et cetera, and whatnot, that is where the policy maker is supposed to be taking care of the peoples' interest.

MR. FINK: I couldn't agree with the Chairman and Robin more. Bob, if you feel that there is not enough or if you are uncomfortable with the competency level of staff, then it's the County Administrator's job, through a directive from the Commissioners to say --

MR. WOLFE: I didn't say, competency.

MR. FINK: Inadequate. Whatever you want to call it, but what you basically said is you're not sure that you are comfortable that staff is capable of handling this on their own. Then in fact as Neal said and as Robin said, it's the Commissioner's job to direct the County Administrator to fix the problem. I don't think by default, because we don't feel there is the correct staff process in place, that they become the default of staff and they act as staff. Because as Robin said, in the County Management form of Government it's the Commissioner's job to set policy, it's the staff's job to carry it out. In response to you, Washington, and to one of the things that Neal said when you asked the question; what was some of the reasons that the Commissioners felt they needed to sit on the Selection Committee, I think one of the things you said is we're the ultimate deciders, so we have the responsibility. They are the ultimate deciders now, because any contract that comes before the County has to be voted on by the Commissioners as a body. So in fact when staff has done its work and presents to them the final results with the back-up, they got the ultimate decision and they have the right to question staff as to how they arrived at their decision, but they should not be interfering in the decision making process to get to that point. And they still have the authority to send them back and reinvestigate if they want to but they shouldn't have the opportunity to do it twice. And there is something a little bit "not passing the sniff test," for lack of a better word. If five Commissioners sit on a Selection Committee and voted for a particular respondent, what is the point of them even sitting as a body to vote as the Commission; it's already passed once how many times do they need to vote on the same issue?

THE CHAIR: Mr. Scherer.

MR. SCHERER: Did we have any of the County Commissioners that spoke before us, propose that we change the system and prohibit Commissioners from serving on Selection Committees?

MR. FINK: Yes. I think one or two.

MR. SCHERER: Can somebody refresh my recollection?

THE CHAIR: Ms. Cepero, do you have those?

MS. CEPERO: I believe, if I'm not mistaken, it was Commissioner Wexler. And I can go back and pull --

MS. RORAPAUGH: Who is here. Maybe we should ask her to speak.

MS. CEPERO: If I'm not mistaken.

COMMISSIONER WEXLER: Didn't know I was here, huh, Mr. Scherer?

MR. SCHERER: No, I didn't.

COMMISSIONER WEXLER: I know. Your back is to me, so how would you know?

THE CHAIR: Commissioner Wexler, would you like to respond to that?

COMMISSIONERS WEXLER: I came here to listen today. Honestly. This is a topic --

MR. SCHERER: Did I ask that the way you wanted me to, Lois?

COMMISSIONER WEXLER: He's "pulling your leg." You know, they believe you.

MR. SCHERER: I haven't spoken to --

COMMISSIONER WEXLER: You do.

MR. FINK: Commissioner should not be on Selection Committees --

COMMISSIONER WEXLER: Correct.

MR. FINK: -- prohibit. And if I may, you also said you're not a supporter of the Cone of Silence.

COMMISSIONER WEXLER: Correct. I'm not a supporter of the Cone of Silence. But I also said that you cannot legislate ethics. That is how I opened it up, if you remember. So you know for me, personally, I think the Cone of Silence is a sham here.

MR. FINK: Those are the exact words I used last week.

COMMISSIONER WEXLER: Didn't I? All right, then well, I'm consistent. May I make one statement?

THE CHAIR: Yes, ma'am. Please.

COMMISSIONER WEXLER: I believe I was here, what; four, five months ago? It was quite a while ago.

MS. CEPERO: It was in May.

COMMISSIONER WEXLER: Long time ago. Six months ago.

MR. FINK: May 13th.

COMMISSIONER WEXLER: Okay. The Chair and I actually worked together last week on a different issue but wound up having lunch together and discussing --

MR. FINK: Was he lobbying you?

COMMISSIONER WEXLER: No. Not at all.

THE CHAIR: Mr. Fink, would you let the Commissioner speak, please.

COMMISSIONER WEXLER: I happen to -- he is not even my appointment to this committee; Mr. Bakalar is my appointment to this committee, but he is a Commissioner in one of the cities that I represent in my District. And I really believed that when I came before you that the path of least resistance was stop Commissioners from serving on these procurement committees, but the more that -- and you know that I understand according to Mr. Wyman, that I have the record of serving on the most procurement committees in the last three years of any Commissioner. And I did that intentionally, probably in the last five years which is my years of service, I did that to see, I did that to completely understand what's going on. And from time to time press attends these Selection Committee meetings. And I want to share with you that too often it's "business as usual," if a Commissioner is not on it. And many times I was the only Commissioner that was on the Selection Committee. And no questions were asked. It was always the Commissioners that asked questions. Rarely did staff ask questions. And you're right, Mr. Fink, it's up to the County Administrator to make sure that the policies that are passed by the Board of County Commissioners are implemented. But that is much easier said than actually done. This is a large system, as any government is, and what you have to take a look at is the whole process of how it works. I have come to believe that a very controlled and randomly selected, and less than staff, and the number that I threw out to Mr. De Jesus was that maybe two Commissioners, because I think one is not good, but two would be fine with three staff. It's still an odd number and it still random. Random. So that you don't have that, who wants to serve and hands go up. And by the way, there is no prohibition even weeks later, if a Commissioner has a lobbyist that comes in and says, would you serve on that; all of a sudden there is an agenda item. So and so would like to serve RLI Number such and such. "That is my world." "That is my life." That is not the way it should be. So you are charged with looking at how to make the process as pure as possible, and that is quite a responsibility, but you have to know the entire operation of this gigantic bureaucracy. So just stating this is the

way that policy is supposed to work, doesn't necessarily mean it does. And by the way, something else I shared with the Chair, was that at the end of the process the Board now has the ability, in Code, to reject without cause. And I think that is a sin, an absolute sin, to be able to have that ability when it's gone through an inclusive, pure, clean process, and then at the end of the process -- and by the way, five number one votes -- at the end of the process have Commissioners say, um, I don't like the outcome, I'm voting no. And I really don't want to say anything else. I just felt that that's enough to give you a feel again of our operation here.

THE CHAIR: Thank you, Commissioner. Mr. Rorapaugh.

MS. RORAPAUGH: Just one question, because I attended one Selection Committee and it was quite the zoo. As a Commissioner or as a member of the public also, can you sit in those meetings and ask questions even though you're not a member of the Selection Committee?

COMMISSIONER WEXLER: Only with the permission of the majority of the Selection Committee. You can't even have input as a responder unless the majority of the Selection Committee agrees to allow that. It's bizarre.

MS. RORAPAUGH: But all of their meetings are open meetings?

COMMISSIONER WEXLER: Absolutely.

MS. RORAPAUGH: So the press can attend, members of public can attend, policy makers can attend. And it's all recorded.

COMMISSIONER WEXLER: But the only participants are the assigned participants of the Selection Committee unless the majority of the Selection Committee requests through the Chair of that Committee that there be a question answered from someone external. Mr. Miller knows it inside out. He is the legal counsel for procurement. So he is always keeping us on at least -- procedurally on the screen.

MS. RORAPAUGH: And the County Administrator makes the appointments of staff to those Selection Committees?

COMMISSIONER WEXLER: That is usual -- I don't know if it's the County Administrator or not, but there are three names that appear on the agenda of who would be assigned to that Selection Committee. And by the way, the Board limited, unless it's a special case, and that is revealed at the Commission meeting, no more than three staff meeting.

THE CHAIR: Ms. Cepero could clarify that question. Then we will go to Mr. Scherer, Mr. Fink and Mr. Wolfe.

(Mr. Collado left the room.)

COMMISSIONER WEXLER: For me? Or may I leave?

THE CHAIR: There are a couple of questions for you. Sorry.

MS. CEPERO: In answer to your question about who assigns those three staffers, it's the recommendation of the County Administrator in consultation with the appropriate department. And it's "blessed," if you will, approved by the Commission.

MR. SCHERER: You changed your opinion about Selection Committees, you think that the Commissioners, at least on a limited basis should be on it.

COMMISSIONER WEXLER: Very limited. I mean, I will live with none, but then what you have done for me is make me have to read even more because now -- and I read a lot. I'm labeled as one of those that does their homework up there. So now I have to look at all Minutes, and see procedurally, what happened, who asked questions. If I have any question about what may have -- maybe the -- and by the way, the Board has always a recommendation for award that comes before it so they don't get -- Glenn, correct me. We don't get to just say I want to go with number two. We send it back to the Selection Committee who then would decide to go with number two, although the Board can reject outright. I hope that helps.

(Mr. Collado entered the room.)

MR. SCHERER: I wanted to get that on the record. And number two, the paper is correct; you served on 70 percent of the Selection Committees over the last few years?

COMMISSIONER WEXLER: Yes.

MR. SCHERER: Did you ever observe that during the selection that when there are multiple Commissioners on, that if it's a close contest between the number one, and number two, and if there is number three, and number four that aren't in such competition, that there is votes for the lesser one in order not to vote for the favorite in order to cause --

COMMISSIONER WEXLER: Are you asking me, have I ever seen sandbagging?

MR. SCHERER: Yeah.

COMMISSIONER WEXLER: Yes. The answer is yes.

MR. SCHERER: How often would you say that happens?

COMMISSIONER WEXLER: Not often.

MR. SCHERER: You've seen it.

COMMISSIONER WEXLER: I've seen it.

MR. SCHERER: When a Commissioner sandbags, do you think that violates the Honest Services rules, that they do it for dishonest reasons?

COMMISSIONER WEXLER: I think it's quite inappropriate.

MR. SCHERER: I mean, if a Commissioner is supposed to serve honestly and they sandbag on a vote in order to "tank," the number one or the number two in order to skew the vote, that vote really isn't honest, is it?

COMMISSIONER WEXLER: Well, I think people have their reasons for doing it and part of the whole process, also, the RLI process, you're talking about an RLI process where you're ranking based on nothing specific versus and RRP process where at least we have a little bit of a chance of specificity because there are points awarded. And I have seen sandbagging in both instances where people have their favorites and it's not necessarily because they're the most qualified.

MR. SCHERER: If we were to analyze the campaign contributions to the Commissioners over the last five years, what percentage came from lobbyists or vendors that got business with the County?

COMMISSIONER WEXLER: Quite a few. The majority of campaign contributions come through lobbyists and people that raise money for those that are running for office from the city up to the federal level and most, at one point or another, either they or their clients appear before that body or submit to that body.

THE CHAIR: Mr. Fink then Mr. Wolfe.

MR. FINK: We're not here to debate whether or not the procurement process as it exists in the County is flawed or not. There are enough people that can testify here to that case. But you made an interesting comment and you said that when you have sat on Selection Committees you found that staff did not really ask a lot of questions and it was always the Commissioners. I went to somebody who I consider an expert in this, who worked for a number of years for the County in the Procurement Division and now is the Director of Purchasing for the City of Coral Springs, so he has had both sides of the coin. His opinion, for lack of a better word, was the reason that staff does not talk in Selection Committees when there are Commissioners present is number one they are in effect their bosses, and number two, they wait to see how the Commissioners are going to begin to influence the process and

what their opinions are, because they are not about to put their job at risk by coming out in the beginning. And I see somebody in the audience nodding. But they wait for the Commissioners to mold the dialogue and see which direction it's going before they will utter an opinion. And I think that's human nature. I think it's human nature when your ultimate boss is sitting in your room, you're not about to risk your job or risk the wrath of that person filtering down. And so I think that inhibits staff from asking the questions.

COMMISSIONER WEXLER: I don't disagree with you. I do not disagree with you.

MR. FINK: So basically you confirm?

COMMISSIONER WEXLER: I agree 100 percent, 100 percent. Although I have seen some very secure staff people. And there are more that feel more secure than others, that will debate you right there and vote absolutely opposite. But it depends on who is appointed staff-wise to that committee. But you are correct, as far as some of them, don't open their mouth, you almost wonder, and do they take "a temperature, which way the wind is blowing," my sense is you're right on target. And that they do not want to go against, especially when there are many Commissioners sitting on a Selection Committee, that majority. I completely concur with you.

MR. WOLFE: You mentioned a section in the Administrative Code or something that allows the Commission to reject a proposal once it has come before them --

COMMISSIONER WEXLER: Without cause.

MR. WOLFE: You're suggesting maybe that be put in here as something as prohibited?

COMMISSSIONER WEXLER: Well, if not here, then certainly the Management and Efficiency Committee, which is also in meeting. And Commissioner de Jesus happens to be my appointment to that. So I'm hoping that if something positive doesn't occur with that, that he is the messenger to bring it to that, since they look at how we operate.

MR. WOLFE: Maybe the Chair could get that section number and maybe we should look at it. And secondly, since you're now recommending maybe they just have just two Commissioners on Selection Committees; how would you propose tightening up the Cone of Silence then? I know there is frustration over it.

COMMISSIONER WEXLER: You have a very difficult job, you really do. As members of the Ethics Committee you have a very, very, difficult job. There's no question about it. And for me, I'm a looking at it as someone who is actually in it, a part of it, who served on 70 percent of these committees and has seen operationally; and that is why for me, I believe that -- I have

seen staff, even though the conversation was, oh, gee, the County Administrator needs to take care of that, and that is the procedure in place; that doesn't always occur. That is why in my modification, because that is what I have come to believe, is a modification of a compromise -- and I hope that whatever comes out of here is fully embraced by the Board of County Commissioners. I will tell you, whatever comes out of here I plan on embracing because the general public will be voting yes every single time. So you have very hard work. All I want you to do is understand the whole complexity of the issue and it's not as simple as not being in it, and I'm in it. And I don't know what the best solution --

MR. WOLFE: I appreciate your comments. As a Commissioner, does the public engage you on this issue, when you're out in public, or do they call your office?

COMMISSIONER WEXLER: They do not. Absolutely not. Sorry to tell you, Mr. Wyman, but I didn't have one phone call, nothing, regarding participation, not one e-mail, nothing. I don't understand that either. And I'm out in the public quite often.

MR. WOLFE: Thank you. Happy Holidays.

COMMISSIONER WEXLER: Thank you. Same to all of you. I'm going to go back here.

THE CHAIR: Thank you for your time, Commissioner.

MR. FINK: Can I ask one thing?

THE CHAIR: She's still here. Can you contact her on her own.

MR. FINK: The Cone of Silence. I'm trying to get to --

THE CHAIR: Commissioner Wexler, would you mind addressing one more question?

MR. FINK: On the Cone of Silence, can I ask you one more thing?

THE CHAIR: After this, if anybody has any further questions for the Commissioner, if you could contact her directly, I would appreciate it.

MR. FINK: You used the exact same word that I used last week, that the Cone of Silence as it exists right now is a sham. And I'm trying to get to, why does it exist in the first place if the Selection Committee is supposed to be doing due diligence, I want them to be able to contact respondents to the RFP if there is information that needs to be gathered in order to make a more intelligent decision. So what I'm trying to get at is what is the purpose of the Cone of Silence? Is it to create the illusion?

COMMISSIONER WEXLER: I'm going to give you my opinion. First of all, the Cone of Silence at County Government was created before I ever got here. So I inherited it. As a School Board member for 12 years -- and you know we hardly served on Selection Committees, so this was a new experience for me, it was quite selective if you serve -- there was no Cone of Silence, so to speak. Then I found out that Cone of Silence was one way. That the Cone of Silence, nobody -- once the short-listing committee took place the Cone fell into place. Now, they can contact us but not individually, through the Purchasing Division. If there is new information, if there is something that they want to share with us, the process that has been identified allows for that, for it to be shared with everybody, not select people. For me personally, I think information is power; I don't mind getting it, and then I have to funnel through it and decide what I want to -- ask more questions about, what I believe is valid or what maybe totally invalid. I believe the reason it was put in place was to stop -- let me be kind -- some lobbyists are much more aggressive in representing their clients than others and between constantly being here, sending e-mails, making phone calls, et cetera, et cetera, that stops when the Cone is in place. And so there is a barrier and I believe that some of my colleagues were happy with that barrier, literally descending. And I really think it's as simple as that. I happen to be one of them that has said that I think the Cone is ridiculous. There are a few of my colleagues that said that publically. And the information that I have, I want to have, and then I like sharing it. So I hope that helped a little bit. Thank you.

MR. FINK: Thank you.

THE CHAIR: Any other thoughts or comments on the procurement Selection process?

MR. SCHERER: Are we going to get a draft of an alternative that would be an absolute prohibition and then we can work on perhaps making some exceptions that would be reasonable?

MR. TIETLER: Whatever I am directed to do.

THE CHAIR: Yes. If you would work on that. In light of the Commissioner's testimony, I would like to look at the randomly selected minority. Again going back to that first conversation, I thought four or less so it was a minority of the nine Commissioners, but I like the lower number even more. Although I just don't know that there is -- what is the benefit of having one or two. I just don't see -- but if there is going to be a push or a recommendation for it, I would like to look at it to compare total prohibition to something and then at randomly selected -- I don't know if you draw from a hat up there on the dais or what you do -- so that it's not tainted in terms of how they were selected. If there is truly an influence of an elected official in front of staff it's probably irrelevant whether there's one present or five present.

There is going to be an influence or intimidation in my opinion. Again, I just can't subscribe to the theory that I can't do my job as an elected official if I'm not on that Selection Committee, because I feel that I can. I have done it. I speak with staff. I research the vendor. I speak with references that vendor has done business with. I look at the outcome of other proposals that they have done with other municipalities, even the County, and I have supported recommendations from staff and I have rejected recommendations from staff based on my findings, which I would determine with cause. I do have a struggle without cause and I think we need to address that issue, because if you watched the last Commission meeting when they were discussing the insurance issue there were some comments there that alluded to that this could be the "norm," if we're not on this Selection process. So we prohibit them and then every recommendation that comes before them they reject because they don't have to give a reason. It's dangerous. It's not productive. It's a waste of staff's time, it's a waste of vendor's time and lobbyist's time and everybody else's. So that, in my opinion, would have to be in that draft as well, something to look at in terms of how do we stop that so that the process is not derailed when it gets to the dais.

MR. WOLFE: Is that the Code section that she was referencing?

THE CHAIR: Yes. Monica said that we received it before, It was sent to us, but she is going to find it again and get it back to us.

MS. CEPERO: If I may clarify? We provided copies of the entire Procurement Code at earlier times, but what I have been informed is that that particular section -- and Mr. Tietler can speak to that a little better.

MR. TIETLER: Glenn Miller is the Assistant County Attorney and is charged with Procurement Purchasing and he would clarify that particular issue for us.

THE CHAIR: Mr. Miller, welcome.

MR. MILLER: Thank you. There is not a specific section within the Procurement Code that states the Commission can reject without cause. The analysis is based upon a number of provisions together which collectively gives the Commission the right to ultimately make the final decision, and with that come one of the options to reject. Under the law you can reject so long as you do not have an illegal or arbitrary reason. So that will always be what the law states but not the procurement. So for instance, we could modify the Procurement Code whereby it was abundantly clear that whether they do or do not have the right to reject all, and if they do, what the actual limitations or considerations must be used in order to reject all. So I can provide Robert the provisions that in totality lead to the position that they have the right to

reject all. And then we can take a look at that and help craft something that you would be amenable to looking at.

THE CHAIR: Mr. Tietler, that would be within our scope to put that in our draft.

MR. TIETLER: I don't know the Commission could make certain recommendations but as far as we're drafting is strictly -- we can't really change the Procurement Code or the Cone of Silence, for that matter. That is not our direct --

THE CHAIR: Mr. Tietler, as the Ethics Commission crafting a Code of Ethics, can we not say in that Code of Ethics as it pertains to Procurement Selection Committees, that the Commission shall not reject a recommendation without cause?

MR. TIETLER: Well, we could clarify that Code of Conduct and then direct that the Procurement Code be changed. That's essentially what we would do. We said there could be no -- we could suggest that. That would be the same as if we said that there could be no members of the County Commission on the Selection Committees, then we would have to direct that the Procurement Code be modified.

MR. MILLER: But it could part of your --

THE CHAIR: Ms. Rorapaugh and Mr. Fink and Mr. Scherer.

MR. FINK: Point of order. Is it's 11 o'clock. You might want to call for a Time Certain on the public.

THE CHAIR: It is 11 o'clock. We have Time Certain, public testimony at 11:00; are there any members of the public? Yes, sir. I would ask that you come up and sit at a microphone. Please state your name for the record and complete a comment card upon your completion, if you will. And you have three minutes to speak, sir.

MR. SINAI: Okay. My name is Art Sinai, S-I-N-A-I. I am in Palm Beach County. I have been one of the people that helped write the new legislation that we passed there. And I have been a Federal Inspector General, I've been in anti-corruptions in the State of Illinois. And my last major, local Inspector General thing was over the Los Angeles Mass Transit building subways. I'm here to speak as a good government person and to offer my free services in helping you people do this, because I have been through it. Everything when you deal with ethics and procurement is based upon money. It's all based upon profit. It's based upon contributions, it's based upon access. Back in the 90's when I first went to this agency as the first Inspector General, we had a massive billion dollar contract that was rejected once and the second time I looked it, it was rejected, the second time, that included firing the CEO of the

agency and eventually convicting the Chairman who ran the City Council of L.A. Based upon that scandal, that got the Department of Transportation to say, A, you need a very strict Code of Conduct for Board members of the MTA. I was one of the people that drafted that Code of Conduct, which I will give you. That Code of Conduct, after it was passed, and had to be passed, because or else they wouldn't get any more federal funding, the current Mayor of L.A., had been a Board member and (inaudible) was the Speaker of the House in California, he called me up and said, Art, I'm going to pass this as a State Statute so the bastards can't change it, once the heat is off. This Code of Conduct specifically excludes Board members from being involved in procurement and dealing with being on committees. It specifically states its limits, gifts of only $10 a year from anybody to an elected Board member, $250.00 total contribution from any outside contributor. We also found that since it was the "money trail," and the dirtiest thing is procurement, that we adopted a practice. We stole it from New York City from the School Construction Authority, prequalifying our contractors, which that they had to list all their offices and key employees and they had to list their connections on contributions by them and their relatives to our Board members.

THE CHAIR: Sir, Can I ask that you complete your thoughts; you're out of time. You only of three minutes to speak; could you complete your thoughts?

MR. SINAI: Have I finished my three minutes?

THE CHAIR: Yes, sir, you have. I'm just asking that you complete your thoughts that you were on.

MR. SINAI: Can I give you people the draft, submit to you the Code of Conduct?

THE CHAIR: Yes, sir. Absolutely.

MS. RORAPAUGH: Please do.

THE CHAIR: And I thank you for your time. If you will complete a comment card as well. And Ms. Cepero, if you could make sure to get a copy of that for everybody. Thank you, sir.

MR. WELDON: Good morning committee members and thank you for being here. It's a very important committee. My name is Jim Weldon. I'm a resident of Broward County.

THE CHAIR: Welcome.

MR. WELDON: Thank you. Again, thank you for being here. This is a very, very, important process. I have these to hand out if you will perhaps do that in that direction. And basically what I want to present -- this is written by myself -- my fiduciary responsibilities and I

suggest that the Broward County Code of Ethics mandate that any elected official who is convicted of or pleads guilty to the commission of a felony be prosecuted for a felony violation of his or her responsibilities to the citizens. And I would further suggest that the Code provide fiduciary responsibilities of other County employees or service providers when deemed appropriate. I submit to this just for your information. And as a request, I would respectfully request that you pass it on maybe to counsel for them to view it. And that pretty much concludes my remarks, because you guys have a lot of work to do, and I served on these Boards for about 30 years, so I know that.

THE CHAIR: Thank you, Mr. Weldon. I appreciate your time.

MR. WELDON: Have you got a copy?

MS. CEPERO: Yes.

MR. WOLFE: Happy Holidays.

THE CHAIR: If you would fill out a comment card before you leave, I would appreciate it. Thank you, sir.

MR. WELDON: Thank you.

THE CHAIR: Back in queue we had Ms. Rorapaugh and Mr. Scherer. I apologize. Any other members of the public wishing to testify? Okay. Thank you.

MS. RORAPAUGH: Just as an aside, I would like to thank both of the members of public that came forward. I believe that we actually had the L.A. County Code of Ethics sent to each of us last March or April. So thank you, Monica, for doing that. Your Code was one that the last Charter Review Commission spent a lot of time looking at. So congratulations on a successful one. Hopefully we will be as successful. Commissioner Wolfe, I want to ask you a question because I'm a big fan of your Commissioner, but what purpose does he think it serves for him to be on Selection Committees?

MR. WOLFE: I can only refrain the conversation. He is not here to talk about it. I believe he's on vacation. It's the one issue he feels very strong about. And I said with you, I'm not an expert in procurement, some of you are (inaudible) and he is my "pointer," so I have a little bit of responsibilities to listen to him and he does plan to engage the process very shortly in January. It's an issue he feels very strongly about. He feels he was elected to participate in that process and feels very strongly about it. And it's something of more listening than talking today, because I do have to respect my Commissioner, the Mayor, in his comments a little bit, because he appointed me here. But I'm saying, I'm not here pushing a plan left or right. I'm

just bringing to your attention what his viewpoints are and I'm sure he will join us in a future meeting and make his comments known. And just to clarify to the Committee, I'm not doubting the confidence of County staff or anything like that, I'm worried about the undue influence to County staff during procurement or every other thing that goes on here with not just elected officials, but with the lobbyists and the outside community. So I do have concern about that. So I'm being honest saying I'm struggling with the issue, trying to listen on both sides.

MS. RORAPAUGH: In response or in addition, I think even Commissioner Wexler's testimony, all seems to come back to some fear that staff is not doing its job, for whatever reason. And that I think again, that goes back to the need of the County Administrator to be empowered to do more about that. The County Commission as explained, approves the Selection Committees; that is their input into the early process of contracting. And ultimately they vote on the final decision or recommendations of that Selection Committee, which they approved. I would much rather have my County Commissioners out in the County talking to regular citizens, helping to figure out how to close the budget problems, et cetera, et cetera, than sitting in Selection Committees for hours and hours of information that frankly, they have no expertise in or little expertise in on some of the Selection Committees. I don't understand why County Commissioners believe this is an intrical part of their job, because it wasn't eight years ago.

MR. SCHERER: We're getting off track her, but it's a great track we're off on. Mr. Wolfe, I really respect what you just said about your Commissioner that appointed you and he has strong feelings and I think he is serving us very well. But I want to say that I'm hopeful that this Board is not constrained to vote on these measures as instructed, and I know you're not and I appreciate the way you said that. And the Commissioner who appointed me was in the paper yesterday supporting the Commissioner's role to be on Selection Committees, as he said, because the "buck stops there." And I'm not going to vote that way. I'm going to vote that we don't have any Commissioners have anything to do with the procurement process at all. And I hope that everybody on this Commission will vote on what we have done here, notwithstanding the feelings or strong feelings of the Commissioner's that appointed us to this. And I didn't mean to speechify and I respect Mr. Wolfe, you making that point, because it's a good one to make. Number two, I have no idea what Commissioner Rodstrom is going to say to me over it, but it doesn't matter. Number two, we had talked about with respect to the Procurement Code in making recommendations, I thought that is what we tried to do with respect to the County Commission in passing a Code that applies to staff that mirrors ours' and we were told that we couldn't do that, Rob, so it seems to me that we're back into that. But let me make a suggestion; why don't we ask the County Commissioners to pass a Resolution at their next meeting that whatever comes out of this Commission they will apply to staff. And

then we wouldn't have to worry about that local delegation request. So that they can do it ahead of time and already say that whatever we pass that they ultimately -- that it ultimately becomes a Code for them, they will mirror for staff. And they can do that right now and we can get rid of a headache.

MS. RORAPAUGH: Can you put that --

MR. SCHERER: Yes. I move that.

MR. RORAPAUGH: I second.

THE CHAIR: We have a motion on the floor by Mr. Scherer to request that the County Commission pass a Resolution to include whatever Code we craft to apply to staff.

VOTE: MR. SCHERER: Whatever Code ultimately becomes the law for them. I mean, we're going to craft something and they can reject it and then it goes to the voters. So whatever ultimately it ends up that they agree in a Resolution right now, that they will apply to staff and then we don't have to worry for the reason that we don't have to worry about getting a local Bill passed.

MR. FINK: Second.

THE CHAIR: That has been seconded by Mr. Fink. Any discussion on the issue?

MR. WOLFE: I totally support it.

THE CHAIR: Any other discussion?

MR. COLLADO: I want to say for the record that I feel that the person responsible for the Commission and the person -- whoever works for that person needs to live up to the standards that they expect of their staff. So I would definitely support something like that.

THE CHAIR: Any other thoughts or comments?

MR. FINK: Call the question.

THE CHAIR: All in favor signify by saying aye. Opposed? Same sign. Let the record reflect Ms. Coward voted aye, as well, by phone.

MR. SCHERER: Can we ask staff to analyze the campaign contributions over the last five years and find out what percentage of it came from vendors and lobbyists; is that something that there is information that staff could do for us, so that we can have that back as part of our information that we're using to make our decision?

MS. CEPERO: I will certainly take a look at the reports that have been filed, but as far as marrying them up with specific vendors, that may take a little bit of time. I'm not sure that it would be in the exact format that will be helpful but we will certainly take a look at it and see what we can -- take a look at it.

MR. SCHERER: Thank you.

MR. BAKALAR: As you talk about gifts to Commissioners; is there any type of requirement and in gifts to staff that they report that? Because I would be interested in seeing --

MR. SCHERER: I said campaign contributions.

MR. BAKALAR: I'm sorry. Well, as important that campaign contributions may be to politicians, the gifts that other staff people may receive, can be just as important to them. And that is why I struggled with this, as do you, and as a former County employee, the insulated piece of Selection negotiations inside of the County staff; what happens with that? It's not the reported campaign contributions, it's the other staff.

MS. RORAPAUGH: Football tickets.

MR. COLLADO: Exactly.

MR. SCHERER: Seems to me if we're going to have the Commission pass a ban it will apply, our rules are going to apply to everybody. So maybe we will get that resolved soon.

MR. WOLFE: Sun-Sentinel ran an interesting article couple of weeks ago and I didn't get distributed at the last meeting, it had an editorial that one of the problems with gift disclosure in the State of Florida is lack of reporting requirements, lack of enforcement and they did a review of how many folks within Broward County actually complete the gift discloses. Hardly any of them do even though they acknowledge receiving gifts, which brings us total around the circle. We're in the holiday season, we see the flowers, and the candy and the fruit and all this stuff coming in the back door of the building all day yesterday. And in my office we have a total gift ban for anybody doing business with the Property Appraiser's Office. We're not allowed to take anything. If you're a lawyer representing a client from the VAB, we don't take anything. So that is why we're looking at that stuff. But it's not enforceable right now.

MR. FINK: I thought we were on procurement.

MR. WOLFE: Yeah. We are. Mr. Chair, I do want to bring up this one issue under new business later.

THE CHAIR: If you want to bring up gift disclosure under "other business,' we will go back to that. Let's stay on procurement and try to wrap that up before we got to "Other Business." Mr. Fink.

MR. FINK: At the risk of being redundant, I need to say this. I am an expert on procurement from a couple of different levels; one of them -- and I'm here to tell you, having tried to work through the County's process, it is fatally flawed as it exists right now. Okay? And it needs to be fixed but it's not our job to fix it. But I can also tell you -- and I appreciate your point of view and I appreciate you voicing the way you did, the beliefs of your Commissioner, but I was told by the Commissioner that appointed me, that I am to do the right thing, and what is going to be best for the people of this County, which is who they serve. And I too am at odds with the Commissioner that appointed me on this issue. But in all the research that I have done, I've come to the conclusion if we're the "lone wolf," out in the woods doing something that nobody else is doing, we have to be the ones that is doing something wrong. And I'm here to do the right thing. And I'm with Bill and -

MR. COLLADO: Who do you mean by, "we"? Who?

MR. FINK: That we as a group need to do the right thing. And yes, we need to respect the opinions of the Commissioners that appointed us, and we know them, but the reality is as we gathered all this information over the past several months, I have come to the conclusion that having Commissioners serve on the Procurement Committee do not serve any viable purpose. I'm not here to address whether the procurement process is correct or fatally flawed or not. That's not my issue, I can testify that it is, but the fact of the matter is that is not why we're here. We're here to eliminate the perception within the public that we're in a "pay for play," society, and the fact of the matter is the Commissioners have the final say now as a Commission.

MR. COLLADO: And they will.

MR. FINK: And they will still have that.

MR. WOLFE: A question of the body, Mr. Chair. If it becomes our policy to recommend that there's no longer Commissioners on the Selection Committees -- this is me asking the body a question, because I'm -- like I said, I'm not an expert on this. Is there rationale to even have a Cone of Silence then, if they're not in those committees?

MR. FINK: Thank you.

MR. WOLFE: I mean, if they're removed from the committee process, I don't know why you have a Cone of Silence.

MR. FINK: Thank you. I couldn't agree -- I make a motion that we eliminate the Cone of Silence and that go in the draft.

THE CHAIR: I don't know if we need a motion on that, we're still crafting a draft. We'll note that. Mr. Scherer.

MR. SCHERER: I don't think a motion at this point is appropriate. Let's see what it looks like in writing. I can't decide something that's not written.

THE CHAIR: Just for the record, Mr. Fink, I would just be mincing words -- but to say that we're here to change the perception of the public as it pertains to procurement, I don't know that I can agree with that, nor do I believe that it's realistic. We're here to change the process so that it's as clean as possible and that politics don't get in the way of good government and that there are penalties or sanctions in place to ensure that if somebody violates that, that there's repercussions or consequences to that. I'm convinced that no matter what we craft, at the end of the day, the public perception is still going to be the public perception; and that is not what we have been charged with by the question in the referendum. And when I come to these meetings I'm not coming from that prospective, realizing we're going to change it the best that we can, but the public is still going to look at it as the public -- as I do, you know, as I go through this process, I have a perception on what I think is broken and tainted and what I think is efficient and effective. So I just wanted to clarify that. I heard you say it a couple of times now.

MR. FINK: I guess my question would be, by changing the process on what we -- is going to be the betterment; aren't we in effect going to be changing the perception because at least we have done something to help, for lack of better choice of words, "clean it up"?

THE CHAIR: We likely will with some, and we will change it in the other direction for others. I just don't know that that is the reason we're here. Again, I might be mincing words. I just don't see that as an issue. Ms. Rorapaugh and then Mr. Collado.

MS. RORAPAUGH: My understanding on the Cone of Silence is that is as you serve on the Selection Committee, et cetera, et cetera, so if the Commissioners are off of that, Cone of Silence still applies to the Selection Committee. Also we discussed on numerous occasions the whole idea of a more transparent reporting system so that a member of the public or press or other Commissioners, could see what interaction was on a specific issue or contract with the

Commission as reported. So we have a couple of different things but I think doing away with the Cone of Silence, we'll talk about it more, I think --

MR. WOLFE: (Inaudible.) If they're not on the side Selection Committees --

MS. RORAPAUGH: But they're covered because they can be on the Selection Committees, is my understanding. That is what places them under the Cone of Silence.

MR. WOLFE: (Inaudible.)

THE CHAIR: Mr. Miller, do you have a comment?

MR. MILLER: Yes. If I may, as it is written currently today, the fact that the County Commissioners are the ultimate awarders of the contract, they are under the Cone of Silence whether they serve on an S/C or not.

MR. RORAPAUGH: Okay.

THE CHAIR: The way it's written today.

MR. MILLER: Today. In the Cone of Silence, those people lobbyists and/or vendors, are prohibited from speaking to County Commissioners, whether they are on S/C panels or not, as well as anyone on the S/C whether it be a staff member or a Commissioner. All of those individuals are encompassed in the Cone of Silence.

THE CHAIR: Once it goes to the shortlist?

MR. MILLER: No. The short-listing -- there is a two-step process in the current procurement process. The first process is short-listing. At the first meeting of that short-listing meeting is when the Cone of Silence comes into play and it continues until the contract is awarded by the Commission. So during that time period there can be no communication unless as indicated --

MR. WOLFE: Even though it's violated.

MR. MILLER: Pardon me?

MR. WOLFE: Even though it's violated.

MR. MILLER: Even though it's violated?

MR. WOLFE: Uh-huh.

MR. RORAPAUGH: He's not the enforcement.

MR. MILLER: I'm not the enforcer. If there is a violation then there is a process by which somebody can file a complaint.

MR. WOLFE: We read in the paper that it gets violated all the time.

MR. MILLER: I'm a just speaking what the Cone of Silence steeds for. And the only exception to that as what Commission Wexler indicated, they can provide a written document to the purchasing director who then in turn will submit it to the Selection Committee, or in the case of a Commissioner who reaches out to speak to somebody for further information.

THE CHAIR: Back to the comment earlier, that the Cone of Silence is one way. The petitioner cannot speak to an elected official, but the elected official can reach out to the petitioner.

MR. MILLER: That is correct.

MR. COLLADO: Ms. Rorapaugh actually made the point I was going to make, which is our contribution through this process is to make sure, to ensure that there is transparency in the dealings of the items that come before us, to whatever we come up with, and that will then hopefully change or modify the perception of the people who want to look into these deeper and see if there was foul play in the business of the County. And that will then change individual perception. But I wanted to make that point that in every step that we have through, we have gone through the length that we could possibly go to, to ensure that we suggest or call for transparency with accessibility in different ways. And that is the only thing that we control up here.

MR. SCHERER: Mr. Miller, has than ever been a Cone of Silence violation that has been -- sanctions that are taken in the last five years?

MR. MILLER: I have been with the County for a year and one-half and during that time period there have been a couple of instances that I have seen come through purchasing where the actual complaint is forwarded to the Office of Professional Standards and they provided a violation and they have received a fine.

MR. SCHERER: How much was it?

MR. MILLER: I think the Ordinance specifically says -- it's different for different circumstances -- but it's 250, I believe for the first instance, and I think the second instance, if it happens, I think is 500. But there is a list of different types of remedies that can be pursued.

MR. SCHERER: This happened two times since you have been here and that you know of?

MR. MILLER: I'm only aware of two, but that doesn't mean -- I'm not in the loop of all of the violations that have been sent to that particular department.

MR. SCHERER: Is there a record of that somewhere, number of violations of the Cone of Silence?

MR. TIETLER: I'm not aware. I'll ask Glenn.

MR. MILLER: I believe it was all centered through one department, which is the Office of Professional Standards. That's where all the violations have to be investigated, so perhaps they have that information.

MR. SCHERER: Can we get the report?

THE CHAIR: Ms. Cepero is looking into it.

MR. SCHERER: Thank you.

MR. FINK: Can I ask a question? Do you happen to know of your own personal knowledge who filed those complaints?

MR. MILLER: No, sir. I don't know that.

MR. WOLFE: Department of Professional Standards; is that your Government Relations Department now, down the hall?

MR. MILLER: I would have to defer to County Admin as to that question.

MS. CEPERO: I'm sorry. I didn't hear you.

MR. WOLFE: Professional Standards incorporated in your Government Relations Department?

MS. CEPERO: Yes, it is.

MR. WOLFE: Okay. That's convenient.

THE CHAIR: Mr. Scherer, your request to look at the records violations; how far back?

MR. SCHERER: Five years. Whatever we have. I don't need -- I don't want to spend a lot of money on it but if it's available for us can we have it?

MS. CEPERO: I will get a copy.

MR. BAKALAR: That goes right back to enforcement. Again, you can't legislate people to be ethical but it's certainly worth the price of $250.00 if I could win a multi-million dollar contract.

MR. FINK: Well, that would come under the penalty phase, which we haven't gotten to yet.

THE CHAIR: I think the biggest concern for me, what I just heard, is not necessarily those penalties and what they are, but the division that investigates it is under the auspice of the County Administrator. It's not an independent division or department, if you will. Mr. Scherer.

MR. SCHERER: I think when we get to our whole "new business," I want to discuss that.

THE CHAIR: Well, I'm ready to tie this up, so that we can spend the last 30 minutes on "other business or new business," unless there are others -- Mr. Wolfe.

MR. WOLFE: I have a quick "new business."

THE CHAIR: Okay. We'll get to "new business" in a minute. Any other comments on procurement selection process, before we move on?

MR. FINK: Can you summarize what we instructed Rob to do?

MS. CEPERO: Rob.

MR. TIETLER: I'm going to draft two alternate versions; one with a total prohibition and one alternate version with allowing perhaps randomly selected two members of County Commission to attend the Selection Commission.

MR. SCHERER: And then there's the third one, which is what we –

MR. FINK: Do nothing.

MR. SCHERER: -- leave it the way it is.

MR. TIETLER: Right. But that point, we don't have to enact anything.

MR. SCHERER: I understand that. But our draft, we're going to have three. I think having parallel tracks on these things makes sense.

THE CHAIR: Let's close that issue for now and move on to "other business." Mr. Wolfe.

MR. WOLFE: An item that I asked to be included on the draft as we move forward, we discussed charitable contributions and solicitations last month, didn't make the cut I guess, and I wanted to bring it up again. I think we had a good meeting last month because we all talked about transparency and the process (inaudible) and I brought up just a small minor point, it has nothing to do with political contributions but it has -- the Board of County Commission has the ability to waive Section 18.63, the Broward County Administrative Code that requires donations of $500.00 or more be accepted individually by a Resolution of the Board. And I brought it up politely last month, but I will bring it up stronger this time is, I think in our Code we ought to have a complete prohibition of the Board ever waiving contributions received by public entities. On June 23rd of this year the Commission entertained and adopted a Resolution to take $105,000 from General Revenue to the U.S. Census Funds. That is a good purpose, that's what they wanted to do. But within that Resolution they waived -- and it was a motion to accept donations to promote the 2010 Census and reimburse the General Fund, but in doing so, the County Commission waived a requirement to publically disclose those donations. I asked in our last meeting that that be included in our Ordinance going forward. And the reason being is simple; we need to understand, the public wants to know what private monies come in for public purposes. This could be the Broward County Census Day sponsored by Rothstein Rosenfeldt and Adler, which isn't out of synch.

MR. SCHERER: I would like to have that back.

MR. WOLFE: I think that is a nice transparency thing we need to put in the Ordinance. I would ask that we include that on consensus right now going forth.

THE CHAIR: Any objections to that?

MR. RORAPAUGH: None.

MR. FINK: None.

MR. TIETLER: Would that be paragraph C of number 5?

MR. WOLFE: Well, I think so. But I'm deferring to you a little bit. I think it would be under charitable contributions for County purposes though.

MR. TIETLER: I think that A really relates to solicitation by County Commissioners and B --

MR. WOLFE: It is. Well, there was one County Commissioner who was going to be do the solicitations -- County Commissioner solicited. And I guess we all know who that would be soliciting.

THE CHAIR: Rob, can you determine where that is best suited and work it in the draft. If anybody has concerns where it ended up we can address it at that time. Is that good, Mr. Tietler?

MR. TIETLER: Sure.

MR. SCHERER: What was the rationale for the secrecy?

MR. WOLFE: Well, I don't know how many times it's waived. Part of my job is I monitor the Commission meetings and I just caught that and went that is weird and pulled the Ordinance for a later meeting.

MR. SCHERER: I think that violates open government, Rob. I don't think the County Commission can privatize their records under 119. Consequently I think that is illegal based on my knowledge. It's not too limited (inaudible) we handled them every week.

MR. TIETLER: I'm not going to opine as to the legality of that. I need to look further into what happened with that agenda item.

MR. SCHERER: I don't know why we need to include anything in our Code here that they won't do something, because it's obviously illegal.

MR. WOLFE: Because they waive it.

MR. SCHERER: They can't waive it. That's my point. I don't think they can legally waive that. Somebody needs to look at that.

THE CHAIR: If it's opined that they cannot legally waive it, obviously that has "opened another can or worms" that the County Attorney now has to address. Do we still need to include that in our Ethics Code? Is that still a general consensus?

MR. WOLFE: Thank you.

MR. FINK: Yes.

MS. RORAPAUGH: Monica, you were going to check into what the cost of a searchable database would be in our efforts to make this transparent.

MS. CEPERO: I have a couple of reports that I will share with you. And if it's appropriate, I'll do that now. We have already had a number of meetings since last week on a couple of issues; one, is this very issue about searchable database. And in essence, what I think we have come up with that will serve the intent of this body, that will be both user-friendly to

the public and inexpensive from the County's prospective to maintain or keep up-to-date and basically what we can do, is, we did some research on the Supervisor or Elections website; the Broward County Supervisor of Elections website has links that in addition to showing the PDF of political campaign contributions, it also allows you to download it into an Excel format, which at that point you can search by name, amount; all of the different fields that they have. We did a few tests on that. So what we can do is provide links and make it more visible on the main County website, the main County page, as well as on the County Commissioner's pages, whatever would be appropriate, and it would link directly to the Supervisor's of Elections information. So that way, we're not trying to duplicate. And it's actually -- what we're using is the actual submission by the elected official.

MS. RORAPAUGH: Point of information. Do County Commissioners have to submit to the State, Secretary of State's Office? I don't believe they do. They only are on record with the Supervisor of Elections of Broward County.

MS. CEPERO: Correct. That is what we would link it to, would be the County. And if I said, State, I apologize. The County. The Supervisor or Elections website.

MS. RORAPAUGH: Okay. Have you guys looked also at -- there are a lot of nonprofit agencies; I think Open Secrets is one. There are several others. And also the Federal Election Commission has an extraordinary user-friendly system where you can go in and pick specific vendors, specific givers, by -- you could put Robin Rorapaugh and you can find out all the money I have ever given. You know, employees, et cetera, et cetera. I don't know what -- have you guys looked at that also? Because having it -- as much as I know, that is an inexpensive way of doing it. I think how you described doing it, probably would cost the County $500.00 to put together, not a whole lot of money because -- but I was thinking in this transparency to make it a little bit more informative to the person who is inquiring. I know that cost is a huge issue but I think they're -- literally are "off the shelf," database management software available for this type of purpose. I don't know who produces or whatnot, but I know the Federal Elections Commission has it and a lot of non-profits do .

MS. CEPERO: What I will do is have our I.T. staff look at that specific program and see if -- what the options are there and how much.

MS. RORAPAUGH: You know, too many people in the condos, they don't have Excel. And for people to be able to look at these and make sense of them, to require them to have a lot of software on their desktop I'm sure actually serves the purpose.

MS. CEPERO: I'm trying to get clarification so I know where I'm directing staff. Federal Elections --

MS. RORAPAUGH: Federal Elections Commission.

MS. CEPERO: They have a system process?

MS. RORAPAUGH: Uh-huh.

THE CHAIR: You mentioned someone else.

MS. RORAPAUGH: OpenSecrets.com.

MS. CEPERO: I will have our I.T. --

MS. RORAPAUGH: Yeah. And have -- if they e-mail me, I can send them links to some of the other --

MR. FINK: Are these databases that people in condos can access and open without having to open Microsoft Office?

MS. RORAPAUGH: Correct. It's all through HTML. So if they have access to the internet, they type in something, the search happens, and they can see it on their screen.

MR. FINK: Okay. Because my concern is no unfunded mandates.

MS. RORAPAUGH: I understand that. We talked a little bit about that. But some of what we're going to do is going cost money. And I think it's money, as long as it's not wasted in approval, the public is not going to have a problem with this happening. Let's face it, right now we have ethics rules that are not be enforced because of cash constraints.

THE CHAIR: What I'm hearing is that we're looking for a system that is easily accessible. This has come up numerous times now, without spending a large amount of money. Ms. Cepero, can you come back to us with estimates of what that type of system would cost?

MS. CEPERO: YES.

THE CHAIR: And then this Commission could make a consensus decision as to whether to move forth on pursuing that any further based on that number that's tied to that issue.

MS. RORAPAUGH: Monica, the Secretary of State's Office has a very similar program; so have your I.T. people look at that too, because that may be able to be transmitted to the County for free.

MR. BAKALAR: I missed the last meeting and I apologize, but I discussed something at the meeting prior, under lobbyists, I think we just missed a word under 2-C, as far as County

Commissioners must disclose any and all lobbying activities that may occur between themselves and individual lobbyists or their principals away from County Government premises. I thought we talked about basically outside of their offices, Commission offices, we talked about the electronic communication that still occurs frequently from what we hear, as they sit on the dais, so that would pretty much cover that, we talked about disclose outside -- it's a simple word change -- outside of their offices.

THE CHAIR: Mr. Tietler, is that --

MR. TIETLER: Well, instead of away from County Government premises, you're saying, outside of their offices?

MR. BAKALAR: Their Commission offices. Yes.

THE CHAIR: Mr. Scherer? Mr. Wolfe.

MR. WOLFE: I think it was a great idea to request that the Board of County Commissioners make a statement and an action that they're going to adopt staff ethics.

MR. SCHERER: Resolution.

MR. WOLFE: Resolution. I was wondering with our calendar coming up, is staff confident that they can communicate to the County Administrator today to make sure that's communicated to the Commission this week to get it on an agenda for the first meeting in January and that I'm sure Commissioner Wexler would propose it, or whoever but that needs to happen real quick with our holiday schedule.

THE CHAIR: Ms. Cepero.

MS. CEPERO: As you all know, the County Commission is on break. A lot of them are, "out of pocket," and are not able to be reached, but I certainly will communicate with all of their offices.

MR. WOLFE: No. It needs to happen because --

MS. CEPERO: It will --

MR. WOLFE: It needs to happen on that first meeting.

THE CHAIR: Mr. Scherer, would you consider -- in that motion it wasn't time certain.

MR. SCHERER: Yeah. No. I kind of meant (inaudible)

THE CHAIR: I guess we have to amend.

MR. SCHERER: I will accept the amendment.

MR. WOLFE: Second.

THE CHAIR: There is an amendment to Mr. Scherer's original motion to request the County pass a Resolution to extend whatever is passed by law to County staff to be immediate and placed on the next available County agenda, which would be January.

MS. CEPERO: January 5.

THE CHAIR: There's a second by Mr. Wolfe. Any discussion on the amendment? All in favor signify by saying, aye. Any opposed? Same sign. Ms. Coward, are you still with us?

MS. COWARD: Yes. Aye.

THE CHAIR: Mr. Scherer.

MR. SCHERER: I have new business. Number one, as to the -- what I have been calling the State Attorney assigned to the County in lieu of a permanent Ethics Commission apparatus, I met with the -- Mr. Satz and his staff and I have spoken with the Chief Judge about this --

MS. COWARD: Mr. Scherer, I want to clarify my vote. It was in support of everyone else. I said it late. I want to make sure I wasn't in the opposition.

THE CHAIR: No, ma'am. You're good. Thank you.

MR. SCHERER: I have spoken with -- had a meeting with Mr. Satz and I also spoken with the chief Judge briefly about this. Mr. Satz thinks that it's a good idea for this Inspector General not to report to the County Commission -- but one we discussed some kind of a permanent Ethics Commission -- and I told him after our service we don't want to do it anymore because we're working hard to do it. And we talked about how this Inspector General or State Attorney, if you will, would be funded by the County. But I have a proposal and that is at their suggestion, that we get that -- we have this Inspector General hired and paid for by the County, that is to act as Inspector General in a manner that we have discussed and have a permanent County agency put together -- I'm using the wrong word here -- be created of five constitutional officers that would supervise -- it's not the County Commission -- that would be the State Attorney, the Chief Judge, if the Chief Judge allowed, the Public Defender, Clerk of the Court and Property Appraiser; that is five, so that you know, you need an odd number for votes and that that become the permanent Ethics Commission, if you will, for the Inspector General, that

they hire the Inspector General, that the Inspector General reports to them, that they meet quarterly, or whatever they have to do. They're all public servants, they all get paid to, you know, so we don't have to have a volunteer committee. And that that would be a way to have one person act as an Inspector General and function within our County. And I'm putting that proposal out. I think that this is what the Legislative Delegation is also going to be considering but we could enact that within our Ethics Code perhaps. I'm throwing that out for discussion purposes. And I have two more items I want to discuss.

MR. FINK: My brain can't handle more than one. Can I ask you a question? In doing this, did you get some kind of idea for what the cost for an Inspector General would be?

MR. SCHERER: Well, remember we had talked about not having a permanent Ethics Commission, that we could hire a State Attorney that is very experienced to come in and do that, rather than spend $2.5 million or $15 million like they do in Dade County, it would be $250,000 or something.

MR. WOLFE: Point of information. When the Legislation Delegation General Counsel brought that State Statute to our attention two meetings ago, I did review it. Of course, I'm not an attorney --

MR. SCHERER: Pretty close.

MR. WOLFE: -- but within Chapter 27, Section 27.34, which allows a county or municipality to contract with the State Attorney's Office for an employee to -- I'm going to use the word, "comply," -- with the special law or Ordinance, it does cite within the Statute what the compensation should be. Compensation is cited in the State Administrative Code. There is already a set schedule over what those rates would be. It's basically the State Attorney giving what those costs are to the County and it's all stated within the Section. That is what I want to bring up,

MR. SCHERER: Perfect.

MR. FINK: Do you know what the number is?

MR. WOLFE: I think it's irrelevant right now. There will be a fiscal done on this eventually, but it's all set if law already.

MS. RORAPAUGH: I'm a true believer in the fact that we need an Inspector General for Broward County. I do question if we're asking the "fox to watch the hens," if we have elected officials acting as the Ethics Commissioners over other elected officials. All our constitutional officers are elected in Broward County, including our State Attorney, Bob's boss. I not sure -- in

the effort to do cost containment, I think we could end up creating an even larger "hornet's nest," then we're trying to discombobulate right now. I think we do need a permanent Ethics Commission. I think we do need an Inspector General. I believe that Inspector General needs to have monies to staff, they should have subpoena power, et cetera, et cetera. But some of that is going to come in our penalties phase. But if we have five constitutional officers, who -- may I just say, some of those constitutional officers over the years, have been under investigations themselves. I'm not sure that is going to give an Inspector General the confidence level that that independent body -- that the independent person needs – that is my --

THE CHAIR: Mr. Scherer, can I ask you a question?

MR. SCHERER: Sure. I'm just "flying the kite," here. I thought that having them be a State Attorney and report to the State Attorney was good enough but the State Attorney thinks that it ought to be something broader than that so that that office doesn't have the consideration -- the criticism that Ms. Rorapaugh just stated.

THE CHAIR: I like the recommendation in terms of -- my point of clarification, when you talk about a Inspector General, I believe the last time that came up for the Broward Delegation; is that who you were calling, the compliance officers? Same person?

MR. SCHERER: Compliance officers, staff. I said, just an Assistant State Attorney, Inspector General. We're all using the same words.

THE CHAIR: I would agree with Ms. Rorapaugh. I'm not real comfortable with constitutional officers, elected officials, overseeing elected officials. How you make up that ethics panel, I don't know, but I would recommend that it goes to Mr. Satz, that is his job. And he might not want it or he might not be comfortable with it, but if that employee is contracted under that Statute to serve as the compliance officer, that he reports to the State Attorney, and the State Attorney would choose or not choose to pursue that any further.

MR. WOLFE: I have a legal question, which you know County Attorneys could answer, but there is only legal minds in the room and on the phone; after I read the Statute a couple two, or three times, it seems to me -- well, first of all, it's not a mandate to the Board because a general law is not a mandate, it's already in the books. We might not need to go to the Delegation on this if we believe legally we can cite this Ordinance, the Broward County Commission shall enact in Section 27.34 and shall contract with the State Attorney under that Statute to enforce the provisions of the Ethics Statutes. And I think it's pretty clear. There might be some legal things here, but I think we ought to look at it legally and see if it's being incorporated in the Statute -- I mean, incorporated in the ordinance. Excuse me.

MR. TIETLER: I know under that Statute, it involves, Ordinances that involve incarceration --

MR. WOLFE: We hope so.

MR. TIETLER: --and I know that the County Attorney already does contract with the State Attorney's for State Attorney involvement on Ordinances that do involve incarceration and types of penalties. So it certainly remains an option.

MR. WOLFE: So you're opining that the enforcement provisions of this proposed Ordinance, wherever this goes, needs to incorporate incarceration for this to be effective?

MR. TIETLER: Well, yeah. In order for that Statute to be involved, the Ordinance has to involve incarceration.

MR. WOLFE: And I believe the Palm Beach Ordinance, which is moving forward, provides for 60 day incarceration incurred to serve violations.

MR. TIETLER: Right. From what I read in the Palm Beach Ordinance, which I believe is consistent the Miami-Dade County Ordinance, the Ethics Commission that they created has the discretion to refer to the matter to the State Attorney and it's the State Attorney that then gets involved with the statutory ability for the incarceration period.

MR. SCHERER: Can we just get this down in writing so that we can get a draft of what this might look like and then we can debate it. Seems like --

MR. TIETLER: Well, at this point, we're not in the penalty phase of the draft.

MS. RORAPAUGH: Compliance officers.

MR. SCHERER: I'm talking about "Inspector General/State Attorney/."

MS. RORAPAUGH: "Compliance officers./."

MR. SCHERER: Can we get that in the draft?

MR. TIETLER: Well, I can put that in if I'm directed to do so. We're in other business now.

MR. SCHERER: I have two more items that I would like to talk about, but might require some work before we adjourn.

MR. FINK: This is at the Chair's discretion but you have an expert in the --

THE CHAIR: I would like to -- we're out of public testimony, I would like to keep -- Mr. Scherer has the floor. Let him finish his other two items. If we need to vote to extend and the majority is willing to do that, we'll do that at that time. Mr. Scherer.

MR. SCHERER: I would like to -- and I read -- I have been reading back on the materials. I would like to have a no solicitation of vendors and lobbyists for any purpose by Commissioners and I would like to see what that looks like on paper and I would like for our attorney to give us a free speech analysis under the Constitution, because there were issues that were raised, and I would like to see how that looks like on paper and have an analysis of whether we can go that far on a legal basis. I know, Rob, you had weighed in that there could be free speech issues on the First Amendment and I would like to see what an analysis looks like, if we were to say no solicitation vendors and lobbyists for any purpose, period, for County Commissioners. I would like to see what that would look like on paper, as well as a legal analysis of whether we could do such a thing.

THE CHAIR: Mr. Scherer, are you talking about the discussion we had relative to charitable contributions?

MR. SCHERER: And/or political contributions. So solicitations of vendors, for any purpose, period, charitable or campaign contributions for themselves or campaign contributions for others, local state or federal.

MR. TIETLER: So this was the issue we discussed last week.

MR. SCHERER: Yeah. Which I read about and you had mentioned some free speech issues. I would like to have legal analysis of whether there -- what those free speech issues are relative to that kind of prohibition. And that is a request. And then I also have a request on the Dishonest Services Draft or law. It was before the Supreme Court now with some problems, and I would like to see what a Dishonest Services provision would look like that corrected -- that corrects legal issues that is before the United States Supreme Court right now. And I would like to see that kind of an analysis, to say that, you know, the Commissioners have got to vote honestly, that they cannot vote for ulterior motives, or vote or take action, you know, under what is called Honest Services. I think it's a dishonest services Statute.

MR. FINK: How do you get an opinion about something that the Supreme Court hasn't ruled on yet?

MR. SCHERER: Either the Supreme Court -- the issues before the Supreme Court are clarified in the briefs and they know what they are and they're already trying to redraft it. I don't think we throw the whole thing out. I think we try to get one that meets "constitutional

muster." And I would like to see what it looks like. I mean, they know what the issues are that are the vagueness issues that are on that draft. And I would like to see it. I think a dishonest services provision in our Code would be something that is very important. Especially what we heard here today, about sandbagging votes, and lots of other issues that are -- that we talked about. So let's see what that looks like.

MR. TIETLER: We provided an analysis of the Honest Services Fraud Statute for the County Commissioners, maybe it was in February, I don't remember when that was, but I can provide that to this Commission where we -- we analyzed over 100 of the actual published decisions, to analyze what the fact patterns were, what the problems were and then we came up with a memo --

MR. SCHERER: The briefs before the Supreme Court, and the argument before the Supreme Court two weeks ago, would be something that I would like you to consider, because the Supreme Court, in my judgment, is going to invalidate the Honest Services, and they're going to have to start over and there are some model drafts that will correct the perceived vagueness issues. I'm not a constitutional scholar by any stretch but that is analysis that I would like to see us have, be provided.

THE CHAIR: There is a request on the floor for information. Please, Mr. Tietler, if you will provide that to not only Mr. Scherer, but to the rest of the Commission. It may or may not change what we decided on last meeting but the whole thing is subject to change as we go, anyway. So let's take a look at those.

MR. FINK: I make a motion that we extend.

THE CHAIR: We still have two minutes. You need -- you want the floor? Anybody else? I need a motion to approve the minutes of 12/9.

MR. WOLFE: Moved.

THE CHAIR: Moved by Mr. Wolfe. Is there a second?

MR. COLLADO: Second.

THE CHAIR: Second by Mr. Collado. All in favor signify by saying, aye. Any opposed? Same sign. Minutes passed. Mr. Fink.

MR. FINK: On this memo that you received this morning from the State Legislative Delegation, I would like to nominate Mr. Scherer to be the liaison from this committee. I know it may be redundant, but we don't know what the Commissioners are going to do relevant to

our suggestion that they at their next meeting pass legislation which says that anything that we adopt would automatically -- but just in case they do not, since we have a deadline here, and they're asking for a member --

THE CHAIR: There is a nomination on the floor. Mr. Scherer, are you willing to accept that nomination?

MR. SCHERER: Well, Yes. Reluctantly.

MR. WOLFE: Second.

THE CHAIR: Second by Mr. Wolfe. Any discussion on the item? All in favor signify by saying, aye. Any opposed, same sign. Mr. Scherer, will be our representative to the Broward Delegation and the request is that a representative help draft the legal language of the Bill and that we find a -- in addition to that is a request that we find a local Bill sponsor before we go before that Delegation on Tuesday January 5, at approximately 5:00 p.m. I will you will bring that information.

MR. FINK: I will bring that information (inaudible)

THE CHAIR: We have an appointment under the Sunshine. He has to operate alone. You can bring your report back.

MR. SCHERER: I'm going to ask that I can use the County Attorney's Office for drafting and legal assistance so that I don't have deputize my office to do it. They're already busy doing something else right now. Can we do that?

THE CHAIR: I will tell you what, let's hold for a minute. I need a motion to extend the meeting past 12:00 for ten minutes.

MR. WOLFE: Move.

MR. FINK: Move. Second.

THE CHAIR: Moved by Mr. Wolfe, seconded by Mr. Fink. All in favor signify by saying, aye. Ten minutes. Any opposed? Okay. Meeting has been extended for 10 minutes. Mr. Tietler.

MR. TIETLER: I don't know that I can authorize that other than the fact that I'm here as counsel to this Commission and I'm right now preparing the draft that you directed me, that this Commission directed me to draft, but in terms of this particular issue, you know, it's up to the Committee Chair where to use the resources of this Committee.

THE CHAIR: Well, request the County Administrator to determine whether those resources can be used or not.

MS. CEPERO: It would be County Attorney's resources.

THE CHAIR: County Attorney. I apologize.

MR. SCHERER: Rob, I'm not trying to overwhelm you. We can get maybe Mr. Myers to help out. You have some brain power over here. How many lawyers? You have a bunch of lawyers.

MR. TIETLER: Well, I would like to discuss this first with the County Attorney before you say we get deputized to take on this -- this particular function, that by the way, we thought originally was against our -- was contrary to our --

MR. SCHERER: You got overruled.

MR. TIETLER: Correct. That's correct.

THE CHAIR: Mr. Tietler, if you would request from the County Attorney as to whether you can provide resources to Mr. Scherer and respond to us before the next meeting.

MR. WOLFE: That's a Sunshine. Part of my other job outside of here is I deal with the Legislative Delegation. I'm probably going to be at that meeting, probably doing another local Bill on my own. As long as I keep my mouth shut on County Ethics stuff, am I allowed to be in that same room if Mr. Scherer is there presenting --

THE CHAIR: Mr. Tietler.

MR. TIETLER: Could you repeat that, please?

MR. WOLFE: I'm currently drafting a local Bill for our office and I will be attending probably that meeting. I have no -- and I will not be wearing any Ethics Commission "hat," but is that okay for me to be in the same room as this is being discussed?

MR. TIETLER: I don't believe so, as long as you're not discussing this County business --

MR. WOLFE: I just want to check.

THE CHAIR: Ms. Cepero, could you give us a final report and do your "take-aways," please?

MS. CEPERO: Sure. I do have -- for point of information, I have what Palm Beach County had to consider yesterday. I have been told by their Clerk's Office that that Ordinance that was proposed was amended yesterday but they could not give us any information quickly enough, but as soon as I get that I will pass it along, and I will give this and send it electronically for those members that are not here today, what their agenda item was, and the Ordinance that they had in front of them to consider yesterday. So I will pass that around.

Additionally we wanted talked about the searchable database, which I will be getting some more information on. And also I wanted to communicate to everyone that the issue of the Visitor's log that was of interest before in former meetings; we have also developed in-house, a web-based system that will be searchable on the internet. We're going to be testing what our new process will be and what we have. We have to talk to all the Commission staff and all of that to see about how it's actually going to be actually implemented, but we have in place kind of a draft of a process that we're going to be trying out. And it's going to be a standalone computer in the reception area, so it will no longer be handwritten information, and it will be -- give you the option to select if you are a registered lobbyist you can click on your name and your client list will be dropped down, so you can click on the client that you're there to represent. If it's someone that you're are going to be representing for the first time, you have not yet registered, it will give you the option to register right on the spot, and then you will have to fill in what specific topic you're there to meet with the Commissioner or their staff. So all of that will be available. It looks real good. I had a demo of it yesterday that was shown to me. So we're working on that. I wanted to give you an update on that.

MR. FINK: Can I ask a question?

THE CHAIR: Let her finish her report and if we have time -- we're going to run out of time.

MS. CEPERO: And then lastly, the only thing that I really wanted to go over was the "take-aways," the "homework," for staff. We're going to be providing -- getting information on the areas in the Procurement Code that talk about or allude to the ability to reject proposals without cause. We have purchasing attorneys working on that, and then we will get that back to the group. I also have the Resolution, the request for the County Commission to pass a Resolution. We will work on that immediately as directed, to -- I guess the County Attorney's Office will have to draft a Resolution and work with Commission on how that will be drafted and put it on the January 5th County Commission meeting, assuming that we can get everyone to cooperate from the Commission level, but yes, that will be proposed. And then we're going to look into the political campaign contributions for the last five years and see how, if possible, we can marry that up with a list of vendors that -- -

MR. SCHERER: And lobbyists.

MS. CEPERO: Vendors and lobbyists that are registered in doing business with the County. And then also get some information on the violations of the Cone of Silence and see how that is documented, and provide that to you as well. Rob has a number of revisions that he will be proposing in the new draft. And we have the other change that Mr. Bakalar had suggested about going back to 2-C, lobbyist discussion. And then Mr. Scherer's Inspector General language to include that. And two legal analysis that Mr. Tietler was asked to conduct on the prohibition of political and charitable campaign contributions. And the other legal analysis on Honest Services. And that is it.

MR. WOLFE: Section 18.63 going back in. (Inaudible.)

MS. CEPERO: Yes. I have that here. But I thought that was part of Mr. Tietler's --

MR. TIETLER: Yes. I got that.

THE CHAIR: Were there any requests made by Commission members that Ms. Cepero did not cover?

MR. FINK: One quick question. On this new entry system for the Visitor's Log; one of my concerns would be that they enter the name of Commissioner that they're there to see, but once they're past the gate they then walk down the hall and stop in and see three or four more.

MS. CEPERO: The current policy and what will be requested is that they have to sign in each time that they're meeting with someone different. And so what we're going to be asking County Commission staff is that those persons -- because it doesn't have to be a lobbyist, it can be a member of the public; those persons will be walked back to the reception desk and put outside of that area. In order to get back into see anyone else they have to redo the same process.

THE CHAIR: Time is 12:10. I need a motion to adjourn.

MR. WOLFE: Moved.

MR. BAKALAR: Second.

THE CHAIR: Moved by Mr. Wolfe, seconded by Mr. Bakalar. Any opposed?

MR. WOLFE: Happy Holiday.

THE CHAIR: Have a very happy holiday. Our next meetings 6/13 and 20.

MS. CEPERO: January 6, 9:30.

(The meeting concluded at 12:10 p.m.)

Minutes
Broward County Ethics Commission

January 6, 2010

MEMBERS: City Commissioner Neal de Jesus, City of Cooper City - Chair
City Commissioner Carl Shechter – Vice Chair
Howard Bakalar
City Commissioner Felicia Brunson
Washington B. Collado (via teleconferencing)
Alfreda Coward
Kenneth Fink
Robin Rorapaugh (via teleconferencing)
William Scherer
Robert Wolfe, Jr.

ALSO PRESENT: Pete Corwin, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Leah Von Leu, Real-Time Reporter)

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on January 6, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the meeting:

The Chair: Anyone else on the phone? Okay, the time is 9:31; I call the meeting to order. May I have roll call please?

(The Real-Time Reporter called the roll call.)

Thank you.

The first item on the agenda is Legal Counsel. I asked that item to be put on there because we keep running into this stalemate of once we have -- our counsel has opined an issue is outside of our scope, then we have eliminated

counsel's ability or willingness to work for us; to draft bills or codes and because we are

(Mr. Scherer entered the meeting room at this time.)

coming down to the wire, and in anticipation of other issues – Good morning, Bill – other issues coming to the table, I wanted to just kind of discuss that a little bit and find out whether this is going to be an issue; this is going to be a conflict. In other words, what do we do when we need legal counsel to do legal work for us? We need them to draft bills and draft resolutions when it's the will of the majority of this Board and they say we can't because we've opined it's outside of your scope.

We certainly can't turn to one of the Commission members here and say since you are attorney, why don't you do the work – I'm sorry?

Mr. Scherer: I said, "Oh?"

The Chair: Right. So I wanted to put that on the table and try to resolve that issue today because we cannot afford to have this creep back up in the 11th hour when we are trying to finalize this Code of Ethics and it's opined by our counsel that it's outside of our scope and we need work done and we're at a stalemate so I will open the floor.

Mr. Wolfe: I thought we resolved it.

The Chair: Well, we did because the Commission was willing to address it; had that Commission not willing to address it, where would be at? The recommendation that Mr. Scherer's staff drafted for? I don't think that's going to work.

So I'm anticipating -- I just didn't want to push it under the rug and sweep it away and say it's not an issue. We skated that one.

Mr. Wolfe: I think the discussions I've had with my appointer, the Mayor, he's very happy with the progress we are making and the issues we're undertaking and he's supportive of all the issues we've voted for, including the staff inclusion and things like that.

I will let Mr. Scherer report on what happened with the Broward Legislative Delegation; moving forward with Mr. Scherer's proposal and they went ahead and drafted some bills that are being worked on this week. I think -- I would hope the County Attorney's Office and staff just – we all just need to decide to get along to get the work done and I think the County Commission is going to be amenable to take whatever steps necessary when we get down that road, to make this applicable to everyone in this building. At least, that's the conversation I had with the Mayor on Monday.

The Chair: Rob, by the way, the floor is open to you as well if you have any thoughts or comments.

Mr. Wolfe: And I think the Mayor is coming next week to address that issue.

The Chair: Okay.

Attorney Teitler: Well, my opinion is that the procedure that was used recently with these two issues is the appropriate procedure and in order to have a resolution prepared by the Board of County Commissioners, the request of the County Attorney has to come from the Board of County Commissioners which is what occurred.

I terms of the local bill, it seems the procedure undertaken right now is the proper procedure because it's coming from a sponsor of the bill outside of this Commission, although Bill, you are the one that promoted the bill. But that's the procedure that should be taken in order to have that go to the Legislature.

The Chair: So it's your position that if the Ethics Commission would direct you by way of the County Commission?

Attorney Teitler: Right. For the County Attorney's Office to prepare a resolution or an ordinance for that matter, it has to come from the Board of County Commissioners.

The Chair: Any other thoughts or comments?

Mr. Bakalar: It seems like a non-issue at this point.

The Chair: This issue at this point is. I agenda'd this after the last meeting; the one where we were virtually at a stalemate. But what do we do when there's another motion and it receives a unanimous vote of this Commission and we ask the County Attorney to produce some work for us and it's the opinion of the County Attorney that that's outside of our scope and therefore we can't do it.

Do we go back to the County Commission again and what if the County Commission says no, we're not going to direct them to do that. We still have a will here as an Ethics Commission. Mr. Scherer?

Mr. Scherer: I think that we had a little rough sledding there for awhile and I had to spend some legal hours at my firm and myself to get the job done that you empowered me to do but it got done.

And we helped draft the bills and we got the sponsor and we had some interface with the County Attorney and I understand their position. And I really think it will be smoother as we go forward.

(Mr. Collado joined the meeting at this time via teleconferencing.)

The Chair: Good morning, Mr. Collado, we're under way.

Mr. Collado: Good morning, Mr. Chair.

The Chair: Go ahead, Mr. Scherer.

Mr. Scherer: I think perhaps the County Attorney might ask to put the matter before the County Commission, that we have been put into some impasses and what to do if the majority -- the overwhelming majority of this Commission asks to do something, that they do it and that they don't have to go get preapproval.

Because of the holidays we faced a situation that -- we would have gotten it done. And I'll assure the Commission that I'm going to do everything I can do legally to make the will of this Commission -- to enforce the will of this Commission. And the County Attorney knows that.

I think they are being very responsive. Rob's a really good lawyer and they have great lawyers there. I understood the dilemma they're put in. And I think we have a way to work now in the future and I will tell you, you know, I'll do what I need to do through my law firm to make the will of this happen. And I don't think they're going to buck us anymore with respect to what happened there and I understood the position they were in.

It got done, the bills are rough and they're before the local delegation. The local delegation is like every bill, if it gets passed the hearing on Thursday, we had the first

hearing on it last night to not even a quorum was there. I think Rob was there for his job with the Property Appraiser's Office.

The Chair: Mr. Scherer, can I ask you to give us an update on that under Other Business.

Mr. Scherer: Okay, sure.

The Chair: Thank you, I appreciate that.

Mr. Scherer: So anyway my point is, is that it got done and I don't think going outside and getting another lawyer at this point is necessary because I will do what I need to do through my law office to be that other lawyer if we ever have that conflict again.

The Chair: Any other thoughts or comments?

Ms. Coward: I think if the will of the Commission is to do something that's contrary to what our County Attorney, I obviously don't think we should even ask or even try to compel the County Attorney they deem that's outside our scope.

My personal opinion has always been to give a lot of the weight to the position of our counsel, however if we decide as a group that we want to do something contrary to the recommendation, I think it's incumbent on us to go out and seek outside sources to make that happen whether that be Mr. Scherer's office or some other source but it becomes our responsibility once we go against the interest of our lawyer. That's how I think it should be handled.

Mr. Scherer: I'll take volunteers to help. I'll pass the next issue to you.

The Chair: Well, unfortunately you can't work together but somebody could certainly --

Mr. Scherer: I know that. I think we've resolved the issue.

The Chair: Well, hopefully we won't -- and that's where I'm going. There's likely other issues that are going to come that we are going to seek direction and as we watch this process through the holidays, real tough to communicate with people; a lot of people out of town and although it was healthy discussion yesterday. Had that County Commission said no, we're right back to square one. We are sitting here, counsel is telling us they can't do it because it's outside of our scope and the County Commissioners are saying we're not interested. It didn't go that way. But when I agenda'd this, I didn't know the future.

Mr. Scherer: Can someone tell us how it went? I was busy and didn't watch it.

The Chair: We will ask for an update from staff again under Other Business on that issue but they moved it forward anyway to some extent.

With that being said, any other thoughts or comments on Legal Counsel? Robin, anything else? Thanks.

We are going to continue with the continuation of our working draft. We left off on number 6, last meeting and we are now on number 7; Financial Disclosures. Those items discussed previously under Financial Disclosures were the training and education pertaining to the recommendations that the County Attorney provided – training to new Commissioners and ongoing ethics council. I'm not sure how that ended up under Financial Disclosures. Maybe somebody will remember some of that discussion or Rob, and each member of the County Commission, shall on an annual basis, attend a one day continuing education. And also enforcement under that as well. Yes, Rob?

Attorney Teitler: The 7 is separate and apart from C., Training and Education. Seven is the last of the group, the last of the Standards of Conduct. And then C. is a whole new section so they're not -- 7 is not related to C. So once we finish the Financial Disclosures, we get a whole new section of the code which deals with Training and Education.

Mr. Fink: Point of information. Then where does enforcement fall which is D?

The Chair: That's a whole new section. Those are items that will be taken one at a time. I think that format will need to be changed to make it a little clearer.

Attorney Teitler: Right. Because you got -- A. is a statement of policy and B. is Standards of Conduct. Then after

Standards of Conduct, then you get into Training and Education. So there is a logical breakdown of how these are done but whatever the will of the Commission.

Mr. Fink: But I think Neal's right. I think this needs to be clarified somewhat.

The Chair: We can do that moving forward. Right now, Financial Disclosures. Online access of forms was the only thought or comment that made it to the draft. I will open the floor at this time for any thoughts or comments.

Mr. Fink: I think Robin, you were the most vociferous in wanting financial disclosure. Why don't you tell us what your thoughts are?

Ms. Rorapaugh: Yeah, and I'm at a disadvantage by having a piece of paper in front of me.

I think that the financial disclosure needs to be available to the public. Right now we are using the state form, which I would love to see them be closer to the federal form, but I know that people get upset about that.

But I think that the financial disclosures need to be filed and needs to be filed electronically and needs to be available to the public, because right now you literally have to go to the County Commission and request it.

Attorney Teitler: So just so I'm clear, you want Form 6, which they have to file annually, you want that

accessible to the public as we have done with some of the other forms?

Ms. Rorapaugh: Correct.

Attorney Teitler: Okay.

Commissioner Brunson: Mr. Chair.

The Chair: Commissioner.

Commissioner Brunson: Just have a question, because those forms were under the Supervisor of Elections, so is that something we can do, to mandate them for them to do?

Attorney Teitler: Well, the Form 6 of the Disclosure is a financial disclosure -- it's filed with the Commission of Ethics. But we could likewise file it with some County department so it could be accessible.

Commissioner Brunson: Okay.

The Chair: Ms. Coward.

Ms. Coward: Could they be multiple; file it in different places or we would somehow retrieve it; how would that happen?

Attorney Teitler: If they are told to file it extemporaneously with the Ethics Commission and some other County department so they could be accessible since they're not originally filed with the County.

The Chair: Ms. Brunson, we're talking about the financial disclosure form, not the campaign finance form. And that's the one that goes to the Supervisor of Elections.

Commissioner Brunson: Right.

Mr. Fink: Can I ask a question of the elected officials on the Commission. Is there anything on that financial disclosure form that if posted online could pose a threat to identity theft?

The Chair: It's public record.

Mr. Fink: I understand its public record. But if a certain amount of -- my concern is because of what I do for a living or what I used to do for a living, is identity theft. And you guys fill out the form. You and Carl fill out this form.

Commissioner Shechter: There are no account numbers. There are no social security numbers. There's nothing like that on the form.

Commissioner Brunson: No, it's not. You just list your different creditors. And that's pretty much it. But there's no account numbers.

Mr. Fink: So in reality then, there would be no unintended consequence of making these forms online if someone wanted to look and see.

The Chair: Mr. Scherer.

Mr. Scherer: Yeah, are they still permitted to put the legal description rather than the address on properties that officials own? Anybody know that? I mean, I fill out that form. Or I did. If I do it now, I don't think so, but I filled it out as an appointee on certain -- I don't think a Class A. A Class B. has to do it a little differently.

And I know they used to -- you would want to see if an elected official or interested person had property in an area and you'd pull it up and you'd get, you know, three pages of legal descriptions which means you know, nobody follows up on that. I would want to know if that's permissible. And if it is, we ought to say addresses and not legal descriptions or legal descriptions and the address and street number.

Mr. Fink: Does the legal description include the folio number though?

Mr. Scherer: I don't remember. I'm just telling you when some interested person is looking and the address isn't there and there's a legal description. Who follows up on that? You'd have to be really interested. You'd have to be a newspaper to do that. But I'm just talking about interested citizens.

The Chair: To be honest, I don't know the answer to that. An address is what I've used.

Mr. Scherer: Most people do.

The Chair: Rob, could you follow up on that and see if legally someone could put that, if that's going to be a concern or look at some of the filings and see if they have used a legal description.

Attorney Teitler: As opposed to an address or just address?

Mr. Scherer: Or rewrite it to say, comma, including street address.

The Chair: So are we requesting staff to make this form available on the County web site in addition to the state website. Is that what we are doing?

Mr. Scherer: I think so.

Mr. Fink: Robin, is that what you want?

Ms. Rorapaugh: Yes.

Ms. Coward: Is it already available on the state website? Can you get it online from the state?

The Chair: Robin?

Ms. Rorapaugh: I'm not sure you can. But I have not tried in many months. So --

Mr. Scherer: I don't think it's easy.

Mr. Fink: Well, you're sitting home in front of your cozy computer there, why don't you try it while we're talking?

Ms. Rorapaugh: Well, let me do that.

The Chair: Any other thoughts or comments?

Mr. Wolfe: I don't think it's online.

Mr. Fink: Is it appropriate at this time to make a motion?

The Chair: This is a working draft. We're not doing motions but if the majority of the Commission wants to do that and there's no objections, we'll continue to craft this as we have.

Mr. Fink: Robin, are you okay with what –

Ms. Rorapaugh: Yes.

Mr. Fink: So you want it available on the County website.

Ms. Rorapaugh: Correct. And it does not appear that you can get it on the Florida Division of Elections website.

The Chair: How about the Florida Ethics Commission? Under the Attorney General? That's where that form is going.

Any other thoughts or comments under Financial Disclosure?

Mr. Fink: I think it falls under the transparency. The more transparency we have, I think the more comfortable we're going to feel that we've done what we've been asked to do; which is to help eliminate again, I say perception -- you correct me all the time. But we'll go back -- I think it cures the problem -- I'm in favor of it.

The Chair: Rob, you're good on that?

Attorney Teitler: Yes.

The Chair: Okay. Let's move on to Training and Education. Section C., I guess.

And under section C. is 1 and 2; thoughts or comments on Training and Education? Mr. Fink.

Mr. Fink: I can speak to what I've seen other municipalities do, because I have sat on them and I don't know what your municipalities do, but Sam Goren is the City Attorney for Coral Springs. As soon as someone is appointed to a Board, be it an appointee or elected official, there is an intense training session given that covers exactly what we did when Rob started on the first day talking about the Sunshine law, all the forms that are necessary and the disclosures. Am I to assume something like that is not done for County Commissioners?

The Chair: Mr. Teitler.

Attorney Teitler: Right. The procedure now is when a new County Commissioner comes in, the County Attorney meets with that new Commissioner and discusses all ethics issues and ethics laws and procedures with that Commissioner. So that's done very quickly after a new Commissioner is appointed or elected.

The Chair: What does that consist of in time, duration, content?

Attorney Teitler: Chapter 112, Sunshine law, public records law. I know that's done pretty regularly.

Mr. Fink: Do they sign a disclosure at the end of that session saying that they received this training?

Attorney Teitler: I don't know that it's that formal.

Mr. Fink: Well, I would like to suggest that maybe we have something of that nature as part of the training and education; that once that training has been completed that they sign something advising or acknowledging the fact that they received the training and that they understood the procedure.

And this is where we are going to get into -- if this is going to be extended by motion of the County Commission to staff, then I think the same thing should apply to staff and I know that's not our jurisdiction but I think you resolved that through the tentative approval of the Commission to extend whatever we develop here for them, the staff, but I think someone should sign an acknowledgment that they received the training and that they understood it.

Mr. Scherer: In order to keep my license to practice law in Florida and Indiana, and pretty soon, Washington, D.C., I have to do so much ethics seminar training every year, as well as every other lawyer and I think that we ought to consider that requirement for the County Commission and the staff.

And it ought to be -- the hours ought to be certified and checked and we ought to have, just like the bar does with me. And I don't think I need it but I have to go to it and I think I learn every time I do.

Number 2, the Attorney General's Office has a Sunshine law expert; it used to be Pat Gleason. I don't know if she's still there or not.

Attorney Teitler: Yeah. And Barbara Peterson.

Mr. Scherer: Are they still there?

Mr. Teitler: Well, Pat is with the Governor's Office now.

Mr. Scherer: And they are excellent at coming in and updating and training on an annual basis and using examples of people who have run afoul of the ethics laws every year and in my former life, I used to have to try to cajole certain Board members to go who thought they knew all that there was to know about it and they didn't show up.

And the ones who didn't show up were the ones that needed it most. Because there was no mandatory requirement for my Board members to go -- my Commissioners to go to training. And we would bring Pat Gleason down, and she and the people who really didn't need it would come and the people who did need it, didn't, because they already knew it all. Including people who

said I've already been on a public board and I know all there is to know about the Sunshine law.

And my view is that we ought to require it, we ought to have a certain amount of it, including the minimum level; to have the Pat Gleason road show come down every year and all of the Commissioners and senior staff ought to be required to attend and certify that they've had ethics training every year.

The Chair: Mr. Teitler.

Attorney Teitler: The Florida Bar, this February will be the second time they've offered it. The Florida Bar, and I'm the Chair. The Florida bar has a continuing education course. Now it's in Tallahassee where Pat Gleason, Barbara Peterson, members of the Ethics Commission, all speak, as to public record, Sunshine, and ethics laws, and it's given once a year if that's something you think they should go to. Or even the Florida Atlantic Institute. You know, that's a more local option.

Mr. Scherer: My feeling is that would be great and it probably ought to be a requirement but we ought not to have them go to Tallahassee to do it. We ought to have Tallahassee come here to do it for them if we have a big enough crowd.

Attorney Teitler: And this CLE, starting this year is online. So if they didn't travel, they could attend it online.

Mr. Scherer: Yeah, well, I'm all for that.

The Chair: Ms. Coward.

Ms. Coward: I agree with Bill. I think what we already have in the draft is consistent with Bill saying what we have in mind; to do a one day continuing education training, at least annually.

I just think the Number 1, where we said they do a training once they become a Commissioner. We might want to put some hours or some duration in that Number 1 as to what we have in mind for the initial one.

I know Rob just told us what they generally cover but I don't know if that's a one hour session, or a four-hour or eight hours so if we want a certain amount of training for new Commissioners, we might want to go and add that in Number 1.

Mr. Scherer: It's not the new ones I am concerned with.

The Chair: Well, the Number 1 will pick up the new ones and Number 2 will continue to educate the current so I agree.

I think our law firm did four hours for me. Maybe I'm slow -- when I came in. I do agree we need to allocate a time period. I don't want to arbitrarily throw a number out. It's a lot of information to absorb in a short period of time.

Whether they do it four hours straight or two hours one day and two hours another day, I don't want to dictate that.

But I think four hours -- if we're going to continue one day -- presumably eight hours from there; four hour initial orientation to bring an elected official up to speed ought to suffice.

Any thoughts on the specifics? If not, I'll recommend that.

Mr. Fink: Rob, do you think it needs to be specific, in terms of the annual review; in terms of the number of hours?

Mr. Scherer: How long is your program in Tallahassee? Which I'm sure is fantastic.

Attorney Teitler: It's all day. It's from 8:30 to 4:30. It's pretty comprehensive.

Mr. Scherer: Would it be advantageous for all the County Commissioners to attend that sort of thing every year?

Attorney Teitler: Well they have traditionally, when the economy was better, they had a lot of local officials attend these functions. Before the Florida Bar sponsored it, the Attorney General's Office sponsored it, and it was in Orlando or Tampa and they would have hundreds of statewide local officials attend that as well as attorneys. But the number of attendees have dropped off and now the Florida Bar has taken over.

Mr. Scherer: Do they have a refresher course? Like if you were to attend every year, would there be like a refresher?

Attorney Teitler: No, but it's kept at the same level every year to where it’s basic.

Mr. Scherer: But is it new material every year in terms of issues that have arisen during the year?

Attorney Teitler: Yeah, speakers like Barbara Peterson and Pat will discuss recent things from the current year and they mix that in with the standard law.

Mr. Scherer: May I suggest that we get that in our rough draft, without putting in the time -- put it in the draft and see how it floats?

The Chair: It’s currently in the draft, under 1 and 2; it addresses both things we’ve discussed; the new Commissioner and the existing Commissioner for the one day continuing education.

Mr. Scherer: But it doesn’t say just for ethics. In the continuing education, is ethics related?

The Chair: Yeah, under the topic of Public Service Ethics.

Mr. Fink: In the draft on page 5 or 6.

Mr. Scherer: Okay.

Mr. Bakalar: Third to last.

Mr. Fink: Did I understand you to say it’s available online now?

Attorney Teitler: Starting this year for attendees who cannot travel to Tallahassee. It's available online to register.

Mr. Scherer: Will Pat Gleason come here? She used to.

The Chair: There is -- Florida League of Cities brings one on the road. The Florida State University Public Government or Commission or whatever that institute is brings one on the road. The Broward Days brings one on the road. There's a lot of options, you know, local attorneys bring them on the road. There's probably not a couple of months that go by from an elected official that says here's this one day seminar.

I'm okay with giving a number of hours to CEU's. Like you would have to as a lawyer. But there's a lot of options out there and rather than have them travel or pay someone to come in -- if Broward Days is doing a four-hour, maybe they should go take that. If it works with their schedule -- or if FAU, or FIU.

Mr. Scherer: It seems reasonable that we would establish that it has to be some certified curriculum and they are free to choose at their convenience.

Mr. Fink: Are you okay with taking it online?

Mr. Scherer: Sure. I'm assuming they do it online like they do with the Bar. We're attorneys so they don't trust us. And you have to after every ten minutes, make sure you're --

which is good -- because otherwise someone, not me of course -- turn it on and do something else.

The Chair: Because you use a legal description for your address.

Mr. Scherer: I didn't say I did that, I just know the tricks.

The Chair: Ms. Coward.

Ms. Coward: Given what we just discussed about the – instead of them and they may want to do four hours here and there for Number 2, instead of having it one day, maybe we should change that to an eight hour continuing education so they can do just, you know, do four hours here and four hours somewhere else.

The Chair: Attend or participate in?

Ms. Coward: Yes.

The Chair: Eight hours of continuing education.

Ms. Coward: Correct.

Mr. Bakalar: Put it as minimum option.

Mr. Scherer: And certify and track it.

Mr. Fink: Right, I like what Howard said about a minimum. And certified.

The Chair: Who would certify that? Mr. Scherer.

Mr. Scherer: Oh, I don't know. We can have Administration keep track of it and they have to certify each of the -- pardon me?

Mr. Wolfe: Well, it might be the Compliance Officer.

Mr. Scherer: Well, it could be. That could be a job of the Inspector General. I don't know who certifies it but each of these courses, if they take a course, they're all certified and they'll send in that they've done that. I mean there ought to be some accountability. I don't know how to do it. We ought to get our lawyer to wordsmith it and figure out how to do it like any other licensing requirement.

Mr. Fink: Rob, do --

The Chair: One second, Mr. Fink. Ms. Coward.

Ms. Coward: So Mr. Scherer, you're saying that the actual Commissioners would be certified that they've taken a class, not that it has to be a class that was pre-certified by someone. You said --

Mr. Scherer: Well, I don't know. I haven't really thought about the details of it. But we all have to sign when we go and be certified. It has to be certified curriculum. Like I said, we're lawyers, so they really monitor us that we're not sliding through a crack somewhere. It ought to be the same.

The Chair: I just don't know that any of that -- those seminars or workshops that are out there now that I'm aware of that are certified CEU's so to speak. They're recognized. Mr. Teitler, are you aware of any?

Attorney Teitler: No.

Mr. Scherer: Isn't the Bar one?

Mr. Teitler: The Florida Bar one probably is.

Mr. Scherer: I don't think we need to recreate the wheel here. We just need to get a system. That's all.

Mr. Bakalar: I agree, actually. It's more like the Commissioners are signing that they've attended something. Again, it would be public record. It's not just attending a discussion with another Commissioner about ethics. It's attending a class.

The Chair: Better hope not.

Mr. Bakalar: I think this how you would go. We're not going to go through every curriculum and pick and choose what we would --

The Chair: Mr. Wolfe.

Mr. Wolfe: Might end up being where FAU is developing an ethics division or school. It might end up being something where you just send the employees and the Commissioners right down the street to FAU and they take their class there; it's certified, it's a college. The County can contract with them under the County Attorney's Office or the Compliance Officer and not have to reinvent the wheel.

Mr. Scherer: Look, we all are -- those of us that are licensed, know what licensing requirements are and how that works and there is probably not a more important position in our

County than County Commissioners for goodness sakes, and I'm not suggesting that they get licenses, but you know, they need to be regulated a little bit. That's what we're trying to do here and we can do it through this Ethics Code. That's all.

Have our lawyer search around and find some meaningful language as to how that could happen. And let us take a look at it rather than us micromanage how it's going to look. I know Rob can go find some examples for us that we can choose from.

Our problem here kind of is we're trying to discuss and get consensus on something without the words on the page. And I have trouble doing that.

Mr. Fink: I hold two state licenses and I know I have to take CEU's every two years for both of those state licenses. And I have to provide proof that I have taken that course and I think what I am hearing here is number one, we want to mandate a certain amount of annual hours we spent on that and number two, that there be some kind of methodology that that's been done, on the record.

And if you want to go to the extent to try and enumerate the courses that would be acceptable if they're certified or not certified, that might be taking it too far. But that's another thing you could do. And say it must consist of -- but I don't know, because it's going to be a changing game all

along the line as we go forward. Ethics and the updating of the Ethics Codes are going to change.

But it's something that provides proof or documentation and if you're going to do online and that was the question I was going to ask. If you're saying as the Chair you're going to do an online course, and you're going to allow people to attend online, you're going to have to like Mr. Scherer eluded to, some kind of methodology of knowing that those people are literally online while the course is going on and that they're not cleaning the house like Robin is doing now.

The Chair: Robin, are you awake? She's sleeping. Mr. Teitler, that Ethics Training that you do, is it geared toward --

Ms. Rorapaugh: I'm here.

Mr. Fink: Pretty slow.

Ms. Rorapaugh: I'm on mute. I forget that sometimes.

Mr. Scherer: It's hard to walk fast in your bathrobe and your slippers.

The Chair: Is it –

Ms. Rorapaugh: Shame on you guys.

The Chair: Let's reel this back in. Ignore them, Robin. Is it geared toward lawyers or elected officials?

Attorney Teitler: The Florida Bar program?

The Chair: Yes.

Attorney Teitler: Both.

The Chair: So it would be applicable?

Mr. Teitler: Absolutely. They've traditionally had many public officials.

The Chair: I agree with Mr. Scherer. We're going to say must attend a minimum of eight hours. Attend or participate in a minimum of eight hours and let the County Attorney come back and give us some recommendations on how that looks and how we track it, and etc., etc.

Ms. Coward: As it relates to Number 1, are we proceeding with the four hours as a minimum for the initial training?

The Chair: Yeah, I believe so. That would be my recommendation. An initial – again, I don't care about what that duration is. But it's a lot of information if you haven't been exposed to it before. So whatever that is, maybe it's a certain curriculum and maybe it's a certain amount of topics. And if somebody gets it in ten minutes, they get it in ten minutes. Mr. Scherer?

Mr. Scherer: It seems to me that if a person is new to the County Commission that there ought to be some kind of a training program that's more than four hours about how to be a good County Commissioner.

The fact that there isn't already sort of speaks volumes. More than just the ethics; about everything. I mean,

you throw them in a job like that and not have -- I mean, a new judge goes to judicial college for two weeks and then they go back all the time.

I think being a County Commissioner is tougher than being a Circuit Court Judge in my opinion. We ought to be thinking about that and ask them to develop a program for new Commissioners and talk about how they ought not to sandbag on selections if they continue to be on selections and how that works.

Or that they understand how sandbagging works and the intricacies of -- the art of sandbagging. I mean, if they're new to the game, they might not even know that for instance. And all the other things that go along with being a County Commissioner and that we know have gotten County Commissioners in trouble.

Because we're looking back on it. So there ought to be some kind of training program for new Commissioners. More than just ethics.

The Chair: Commissioner Brunson.

Commissioner Brunson: Mr. Chair. Just for us, we have Florida League of Cities training for incoming Commissioners. Is there not a League of Counties or something? I don't know if that's the correct name. And I'm pretty sure they have the same type of program because I know the first time

I got elected, we were provided all that information to go to that training. And I believe it was a two-day training -- you got all that information.

Mr. Scherer: Do we have that already? I don't that. Maybe if it's already there and I don't know about it -- the public ought to know about it.

The Chair: There's two classes that you -- it's optional. I attended both. One is for elected municipal official and one is advanced.

Commissioner Brunson: Advanced.

The Chair: They're both two days each. Florida League of Cities puts them on. Mr. Corwin, are you aware of a County --

Mr. Corwin: Florida Association -- I'll get you the details.

The Chair: They're voluntary for us. But we can certainly --

Mr. Fink: Let's make it mandatory.

The Chair: Well, that's the Florida League of Cities. I don't know that a lot of that stuff they talk about -- that is municipal law, not County law.

Mr. Scherer: There's not a lot of difference is there? I mean, it's administrative law. If you're a lawyer.

The Chair: Well, certain modules I'm sure would be applicable. But I'm okay with sending them there if we want to start there.

Mr. Wolfe: We're talking about new Commissioners; new to the job and then probably senior staff if we're going to be talking about if staff is going to be included in this. We wouldn't necessarily want every one of the 6,000 employees or however many employees we have to go, but certainly senior staff should go. I don't know. Just thinking about this. But you know, like Mr. Corwin, when he became senior staff here I don't think they had anything like that because they were still riding horses.

The Chair: Mr. Wolfe.

Mr. Wolfe: Yeah, I don't know if we need to micromanage the process that much and what the program is going to be. In fact, just skimming through the Sunshine brochure and found out they have online training from the Florida Ethics Commission too. There's tons of programs out there, tons of colleges, tons of stuff. Whether it's the County Attorney or the Inspector General or whoever, as long as it's in the code, they'll develop what the class is.

Mr. Scherer: The last point. When I read in the paper where the new Senator, Lemieux (sp), got appointed even though he's on a short-term basis, he had to go to Senator

school. I mean, he had to learn how to be a United States Senator just for the 18 months that he was going to be there.

Ms. Rorapaugh: Yeah, and anyone who works for the state, if you are a political appointee, or SES for the Executive branch, you have to attend a full day of ethics training and if you are a House member or a Senate member, you have a full day of ethics training plus their staff all have training too.

Commissioner Brunson: Mr. Chair, one last comment. Is it possible so that we don't, like micro, really, manage. I know we put down the number of hours that they go to. Is it possible to just like include like an attachment like a listing.

I know like you said Broward Days does, The League of Cities, the Florida Bar. If we could just create like a listing of all those that provide the different trainings and say these are the options that you can choose from.

Rather than just telling them you have to go to this one, give them a listing of all the various opportunities that are available to them because if they have to go every year, it doesn't make sense that they have to go to that same one every year. If they have to do eight hours, they may do two hours here at one. Four hours at another. If we provide them that list, they'll be able to pick and choose.

The Chair: Mr. Teitler, could you draft that?

Attorney Teitler: I don't know the attachment would be workable in an ordinance. So there's probably a more official way to handle that either by listing it or directing them to some other source to where they can find that out. But an attachment wouldn't work logistically for an ordinance.

The Chair: Can you come back with a new draft that gives us some language on how this should read in terms of ongoing CEU's and also some of these recognized programs and we can decide as a Commission if we want to include them in the ordinance or list language such as approved classes to be determined by -- Mr. Fink?

Mr. Fink: The last thing and I think we've beaten this to death is a.) we don't want to micromanage and b.) Bills' point about a certain staff level because we have to be conscious of the unintended consequences now that it looks like the Commission is going to adopt this code for staff.

We just have to be careful how far down the ladder we go in making these requirements. So it's something that you have to be conscious of when you write that.

The Chair: Okay. So that he has some language to put in there, is it the will of the majority of this Commission, for the purpose of the ongoing CEU training that we're discussing, when we say staff we're talking about senior executive staff or senior administrative staff?

Mr. Fink: If it were me, I would be at the department management level. Because those department managers have more control on a daily basis of what their people are doing. Senior executive staff, to me, are going to be the upper echelon.

I mean, you tell me. You guys work for the County. But what I've seen in my dealing with the County, the department managers at a level where --

Mr. Corwin: We got round numbers, about a dozen departments and about 50 divisions. That may be overstating it. But the division level, 30 to 40 divisions, are probably what you are describing. Who runs Traffic Engineering or Streets for the County.

Mr. Fink: Well, fifty is not unwieldy; 5,000 is.

The Chair: I think Rob knows where we're trying to go with it. He can bring back some language. Let us move on to Enforcement; Section D. Rob, did you have a comment?

Attorney Teitler: Yeah, this language was put in per the request of Mr. Scherer who wanted something in writing to show some format of some sort, some workable format. Again, it's just a suggestion based on discussion from the last meeting.

Mr. Fink: Is this D 1?

Attorney Teitler: Yes, D 1 and 2.

Mr. Fink: So my question is, are these talking about criminal infractions or civil? Look at B., Civil Infractions. This is a point of information. Is this where we could put in fines for civil violations?

Attorney Teitler: That would be under 2.

The Chair: Under Sanctions.

Mr. Fink: Gotcha.

The Chair: Looking at 1 A, and B 1, any thoughts or comments?

Mr. Fink: Has 1 A not been preempted by this Broward Delegation?

The Chair: I don't -- we don't know the answer to that. And I don't, you know -- if we are going to go forth with this, I think we continue to go forth if it's the will of this Commission. If that pans out, it pans out. If it doesn't -- the timing of this is not going to allow us to wait and see.

Attorney Teitler: And it could be compatible.

The Chair: It could be. Ms. Coward.

Ms. Coward: Point of information. The sooner we go through and make decisions and we do this and ours is approved and everything prior to there being some law passed. Do we have some provision already in here in the general language how we handle any conflicts?

Because we had talked about maybe the federal may change and things. Do we have some provision that will say what takes precedent if we what we put is contrary to what state legislature passed or the federal government?

The Chair: Mr. Teitler.

Attorney Teitler: Were you talking in terms of what we talked about last time about the honest services fraud?

Ms. Coward: Yes. But I think it would apply here as it relates to the Office of Inspector General if the state were to pass -- the bill passes that says someone else should do the appointment for instance, contrary to who we say should do the appointment. How would that be resolved?

Attorney Teitler: Well, that would have to be worked into this.

Mr. Wolfe: A separate bill would take care of that. Would it be helpful -- because I don't think the members have it -- there's a working draft being circulated for the creation of the Office of the Inspector General with the Legislative Delegation. I don't know if the Chair has a copy. I have a copy because I got it at the meeting last night.

The Chair: He gave us a copy.

Mr. Wolfe: I think we ought to review that and I would sort of be interested to see what the temperature is like

around the room as to what your thoughts are on those and the wording of it.

The Chair: You all have that, it was given to you in the Broward Legislative Delegation and because it's pertinent to this discussion, perhaps Mr. Scherer, we ought to ask you to give us an update on that yesterday.

Mr. Scherer: The Legislation Delegation took it up last night and I think there was a vigorous discussion of it among the handful of people that stayed around to discuss it and it's going to be brought back before the Delegation on Thursday. Hopefully first, and not last.

And the discussion – there was little discussion on the code that we passed applying to staff. That was almost – I don't believe there was any question on that. I think that was pretty much universally accepted with the Delegation. Now who knows when they get the fully body there.

But I don't think I had one question on that and afterwards there were a number of questions on the Inspector General and how it was going to work and who the Inspector General reported to and all of those sorts of things like you might state.

The attorney for the Delegation, Steinfeld, Mr. Steinfeld, did a very nice job. Eugene Steinfeld did a very nice

job drafting – it was supposed to be a shell. And it was more than a shell. There was a lot of stuff in it, as you'll see.

So I got drilled on it even though I didn't write it. And some of it, which I told them is beyond what this Commission empowered me to impart to them in terms of who the Inspector General reported to, but the questions were nuts and bolts kinds of questions and I got the impression and also from my discussions with – I got my representative, Ellyn Bogdanoff who is in my area to sponsor it. She's the only person I called and she agreed to do it.

But I got the impression that you know, this is a working draft that is going to continue through the session and they're going to – if it passes on Thursday, they're really going to work on the nuts and bolts of how that Inspector General which I analogized to a Compliance Officer, will function.

And you know, I think it was well received and I think for sure the Ethics Code for the staff was well received. And do I know whether it will be passed? I don't.

I think there's – it seems to be pretty favorable. I didn't hear anybody say they were absolutely opposed to it. Well, Representative Waldman cross-examined me pretty well; B-. Because he was opposed to a five person special appointment – commission or whatever it's called in there, that chose the Inspector General and then the Inspector General reported to. He

felt that it should be a State Attorney and just report to the State Attorney like any State Attorney would kind of, you know, our initial idea.

I think they were all pretty perceptive, at least I hope, to my statement that we did not want to create a $15 million a year bureaucracy like they have down in Dade County. We thought this was a way to effectively deal with the issue, at least to start with.

That bill, by the way, when you look at it, empowers the Inspector General to hire staff and do things if they need it. So the Inspector General could create a bureaucracy if he or she wanted to but the reporting back to the – they've got five persons that are to be the special committee to supervise could rein that in. And I'm sure there will be checks and balances and I'm sure there will be sunsetting in there as well when it gets passed.

The Chair: Mr. Teitler, am I correct that if we were to write in our Code that there be an Office of Inspector General that would report to the State Attorney as recently suggested and that local bill does not pass, this would have no weight or no authority to do that?

Attorney Teitler: If the local bill does not pass?

The Chair: Right.

Attorney Teitler: This would still be effective. You're saying it would not be effective?

The Chair: Well, that's what I'm asking. If we pass that saying that we want to appoint an Inspector General and he will report to the State Attorney, can the State Attorney say no thanks?

Attorney Teitler: Yeah, which I believe he has already said.

Mr. Scherer: Yeah, my opinion is yes. And my opinion would be that it would be challenged anyway. Representative Hazelle Rogers challenged it last night saying it's beyond our authority to even ask for that.

I disagreed with her and do. Because we have asked and we can ask as a body and we can ask as individuals but – so I don't think we have the authority to do that.

Attorney Teitler: But if we have an ordinance provision that has a misdemeanor penalty, the County can deal with the State Attorney directly to prosecute.

Mr. Scherer: Right. But we can't require the State Attorney to put somebody here even though we ask that the County pay for it.

Additionally, we have an issue. The reason we went this route with the Legislative Delegation was because there is a question as to whether we have, as a Commission, whether we have

authority to do this anyway; whether this is beyond the scope of what we were charged to do by the referendum as Representative Rogers raised last night.

So rather than get into a court case over it, just seemed more expeditious to ask the Legislative Delegation to pass it. We could do whatever we want here by saying inconsistent with whatever they do in Tallahassee; whatever bill might be passed.

And because we are a Charter County, there may have to be a referendum on it anyway, not withstanding everything. We go through and put it here and the Legislative puts it in a local bill. Because it's a Charter County, when it gets to the Governmental Affairs Division in Tallahassee, they may require a referendum.

The Chair: Mr. Wolfe.

Mr. Wolfe: I was at the meeting last night in my other capacity but I was also very cognizant that we are under the Sunshine so I was not speaking on anything in the public meeting.

Mr. Scherer: He acted like I had the plague.

Mr. Wolfe: But I did want to talk to counsel after the meeting a little bit on some guidance because there were a lot of members trying to pull me into a discussion -- wanted me

to come up there and speak and I said no, I don't think it was appropriate. Mr. Scherer is the representative.

I'm not 100% sure where the Delegation is going to go Thursday. And I spend a lot of time at the Delegation. That's part of my job.

For those in the audience that are representing groups like Broward Workshop and Broward Coalition and things like that, I would hold their feet to the fire between now and Thursday. If you want to see something done, get on the phone. And if you don't say something, it might not pass.

Mr. Scherer: Is Morgan here? Is anybody from the – oh, yeah. I didn't see you back there.

The Chair: We will invite public comment at 11:00.

Mr. Scherer: I just wanted to make sure the Workshop is here and they are.

Mr. Wolfe: I'm really impressed with the work of the legal counsel of the Delegation office. Gene put some really good thought to this.

I think the reading of the Delegation last night; there is interest in this but there is also the conflicting interest of the role of the State Attorney on this. I think that's where they're polarized but I think we ought to make every attempt to emulate what has been presented in this draft and put some of this in our proposal at some point in time.

But I do think we need to work with the Delegation on Thursday and see what happens.

The Chair: Thursday, tomorrow?

Mr. Wolfe: Yeah. Tomorrow.

The Chair: What time does that start?

Mr. Scherer: Well they said 4:00 or 4:30?

Mr. Wolfe: They called for a vote certain at 4:30 because they're having – they always do – they have trouble with quorums. But I would like some Board guidance by counsel. I don't want to do anything to violate Sunshine. If a bunch of us were at that meeting and talked to by members --

The Chair: As long as we don't talk to one another.

Attorney Teitler: You can't talk to one another and you can't use another person as a conduit.

Mr. Wolfe: Am I allowed to get called in from the audience by a member of the Legislature and say, Bob, what is your opinion of my bill on this?

Attorney Teitler: Sure. I don't see a problem with that.

Mr. Scherer: It's a public meeting.

Mr. Wolfe: I didn't want to do it yesterday.

The Chair: No conflict unless you speak with one another.

Mr. Scherer: I could use some reinforcements.

Mr. Wolfe: I will be there Thursday.

Mr. Scherer: Frankly, I wouldn't mind seeing --

Mr. Wolfe: I was on the phone today with a representative from Ellyn's office, and I strongly recommended that bill draft be sent to Jack Seiler and see what Jack thinks about it since he's been roped in on the School Board side of this issue. And I think Jack's in support of this and either a letter or showing up tomorrow would be helpful.

Mr. Scherer: You want to tell them about that part of it. Because that took me by surprise. We didn't ask for that. Do you want to tell them about that in case they haven't read it. About the School Board.

Mr. Wolfe: What's interesting about this proposal Gene put together and I know you haven't had a chance to read it yet. I was reading it last night for the first time.

This allows – this is why the scope of the bill is important because it will allow a vehicle for the School Board, or any other municipality – a municipality may or may not want to participate in it – it allows for this to be almost a fee agency where a municipality or the School Board could contract with the Inspector General and take over the compliance for that municipality or other government agency. It's not a requirement, but it's just another option.

I would like you all to read it and review it because I thought there were some really good points in it without making it a big bureaucracy.

Mr. Fink: I think there are two things I am concerned about. Number one, I think we have to plan for the worse which is that by the time it gets to Tallahassee and the full Legislature, it might get eviscerated to the point where it's not what we wanted, so I think this is a good model because I did take the trouble to read it before the meeting started but I think we have to make sure we put in our code the things in here that we want so that just in case it does not get passed in Tallahassee level, that we have it here as a backstop because if I understood what Rob said, what we put in here will be effective.

The second thing which I am concerned about which I've always been concerned about which I think we've all express is unfunded mandate and in reading through this there is a mechanism in here to fund this Inspector General Office through a one-quarter of 1% fee levied on every contract so the two things I'm saying is number one, I think we need to include it in our draft in case it doesn't pass at the state level, and I think we need to include the funding mechanism as well.

The Chair: Mr. Wolfe.

Mr. Wolfe: Just to let you know the local bill process a little bit is the importance of the meeting tomorrow -- this is being proposed as a local bill. It's their requirement of the delegation process that the Delegation must accept it by a certain percentage of the vote between the membership of the House and the Senate.

That will happen up or down tomorrow. If it passes tomorrow, it's not free of legislative tampering but it contains a vehicle which is pretty much sent through the legislative process and Representative Bogdanoff is the Rules Committee Chairman and the senior leadership in the House. And I would guarantee if it gets passed tomorrow night, it's going to get through the House.

Mr. Fink: Will it get through the Senate?

Mr. Wolfe: Yes.

Mr. Scherer: Howard seems to have an idea that it won't pass.

Mr. Bakalar: No, I think it will pass. I'm saying it's not like it will go through 15 committees. If it gets passed --

Mr. Scherer: Both the Senators have to unanimously approve it.

Mr. Wolfe: Right, our problem is the vote tomorrow.

Mr. Scherer: Yeah. I mean if one Senator says no, it does not pass. Because we only have two, right?

The Chair: Why don't we do this.

Mr. Scherer: How many do we have?

Mr. Wolfe: We only had two last night.

Mr. Scherer: How many do we have in total?

Mr. Wolfe: Five or six.

Mr. Scherer: Oh, okay. I couldn't remember how many we had.

The Chair: In the interest of time, we don't know what they're going to do and it shouldn't dictate what we do here. We need to move forth because even if they approve it tomorrow, there's a long process before we know whether it gets done or not.

Let's -- we got the bill in front of us -- realize many of you received it this morning or last night. Let's -- we have another meeting Wednesday. Look at that bill, see what language you want to recommend that we move over into our ordinance, and we'll move forth with this regardless if they do. It's a bonus if they pass it. It supports us and takes the onus off us in terms of what needs to be in here. We can just refer to that but we just don't know where that is going. Mr. Scherer?

Mr. Scherer: Can I ask that some of you folks attend tomorrow?

Mr. Fink: Can you tell us where it is?

Mr. Scherer: Yeah, it's at Nova --

Mr. Wolfe: Tomorrow it's at the Courthouse, Jury Room. Horrible place.

Mr. Scherer: Where is it?

Mr. Wolfe: The jury selection room.

Mr. Scherer: Okay, well that's just right downtown. I would ask that my colleagues come to the thing and in particular, the elected officials would be good to come and speak because you have good credibility – maybe more credibility than some of us.

Mr. Wolfe: I would think so.

The Chair: All right. Let me ask that you do that. Look at that bill. Be prepared to come back next Wednesday with recommendations of what you'd like to see moved into our code, moving forward.

If you can attend, that's great. I think it's important to know that we supported this and that we're behind it and you would be available for any questions they may have as individual members of this Commission.

Moving on within that, it's really going to be all encompassing if you look at the civil infractions.

Fines, etc., do you all think we should continue to discuss this since it's all under that bill, or just wait and see

what we move into and then again by Wednesday we will have a better understanding whether this is moving forward or how much emphasis we have to put on it.

So at this point I would recommend we hold on to any further discussion. I mean we can give opinion all day but there is so much pending on what happens tomorrow. Any other thoughts?

Mr. Wolfe: I agree.

The Chair: Since public comment is time certain, why don't we move to Other Business, if there is any. Mr. Teitler, am I permitted to take public comment early if there's not enough other business?

Attorney Teitler: It's been Sunshined though.

The Chair: Okay.

Mr. Fink: Can I ask a question about fines because I didn't see anything about civil fines. Are we skipping fines?

Attorney Teitler: It's under Sanctions.

Mr. Fink: What page?

The Chair: There is no page number.

Mr. Fink: No, no, I mean fines – I've got it in the draft. I'm saying in the Legislative bill, I didn't see anything about civil fines.

The Chair: Mr. Teitler.

Attorney Teitler: The Inspector General bill?

Mr. Fink: Yeah. I don't see anything in there about civil fines and civil penalties and I thought that was one of the things we were going to -- I don't think it's part -- I agree about tabling the Inspector General and the misdemeanors, but the fines, we have some draft on page whatever, next to the last --

The Chair: Mr. Teitler, are you confident that there's nothing in the Inspector General bill?

Attorney Teitler: (No answer.)

The Chair: I think what we're looking for, Mr. Fink and members, please correct me. Give us an opportunity to read that bill and see what is applicable and what's not and what we need to put into our code.

Attorney Teitler: It does not provide --

The Chair: You've read it but most of the members have not.

Mr. Fink: Okay, but the only point I'm saying is civil fines -- this talks more about criminal penalties more than it does civil penalties, or am I confused?

The Chair: We haven't read it. I think that's the point. You've read it and you're familiar with it. None of us have. We just received it this morning so we don't know what needs to and what doesn't. Mr. Bakalar.

Mr. Bakalar: It might be as simple as under Fines, take out knowingly and recklessly and say violates and it's up to

anyone so we could just wordsmith that after we've read the other one.

The Chair: I agree. Anything under "Other Business?"

Mr. Wolfe: Yeah, I have one point.

The Chair: Mr. Wolfe.

Mr. Wolfe: Going back to the working draft. What section is this? Outside Concurrent Employment, I guess subsection C, on page 4.

Attorney Teitler: I'll make sure I mark the pages.

Mr. Wolfe: That's okay. Do we have -- is it within our scope -- I know we sort of discussed it. I don't like the wording of it. Is it within our authority Rob, to tell a County Commissioner that their spouse cannot lobby in front of the County Commission?

Attorney Teitler: That would be problematic. And I looked at that early on. We can have them provide notice of transparency regarding what their spouses are doing.

Mr. Wolfe: We can't ban that?

Attorney Teitler: We cannot prevent that, no.

Mr. Wolfe: Why not?

Attorney Teitler: That would start getting into the "Right to Work." And it would create problems to start controlling the employment, the livelihood, of the spouses of County Commissioners.

Mr. Wolfe: It just really bothers me. To me, that is an inherent conflict of interest if a spouse or domestic partner is in front of an elected body or lobbying within the agency.

Within our office, the Property Appraiser has determined and made an office policy, just to give you an example, because we had this example go on.

If we have a spouse or domestic partner who represents a private entity, be it a taxpayer, or tax representative and they come into our office and want to discuss the property, we basically say thank you very much -- even if they are an attorney -- and say thank you very much -- you can go to the Value Adjustment Board and contest this case because we are not going to discuss the value with you. You are related to an employee in the office and it's a conflict of interest and Lori's made that very clear in our office. And I guess that's the one part of this that bothers me. That I think is an inherent conflict.

The Chair: Mr. Scherer.

Mr. Scherer: Yeah, Rob, I take issue with your opinion there a little bit. I think in the absolute prohibition in state law that an elected official cannot do business with the agency applies, and that applies to the Commissioner. And any blood relative or domestic partner. That is doing business with your own agency, and I take issue with that. That was my

interpretation when I saw in your position vis-a-vis Hospital District Commissioners.

Attorney Teitler: You're saying under Chapter 112 that that applies to more than just the elected officials?

Mr. Scherer: It does. I think it applies to family members and spouses and I think there's some cases on it or AG opinions on it but I think that is under the doing business with your agency prohibition that I think trumps the "Right to Work" because the Commissioner doesn't have to be a Commissioner. If they want their spouse to lobby or work before the agency they can resign and not do business. I'm hop shooting, Rob. I mean, I'm doing this from memory.

Mr. Bakalar: And I would agree with both of you. If there's no absolute prohibition and case law isn't so clear. I think we should be putting that in because it's what the public would expect anyway.

Yes, I think we should go for the stricter -- including spouses and domestic partners.

The Chair: Ms. Coward.

Ms. Coward: I don't have a problem with us prohibiting the spouses from lobbying; some concept, somehow of doing that, but I have a problem with us putting that in here. Because if the code is supposed to be governing what the Commissioners can do, I think if we're going to do it, we need to

find some way to do it similar to maybe how the state does it. Instead of saying domestic partners shall not -- because it strictly enforces something against a family member and not directed to a Commissioner as our code is supposed to be directed.

That we find a way of doing it that includes – that we would have to put in some definition that when we say it's the Commissioner that it applies to their immediate family or something like that. I don't have a problem with the concept. I just thought that we should not have language specifically prohibiting the employment of partners.

Attorney Teitler: Well Under Chapter 112, 112.313, Subsection 3, which is under Tab 3 of our notebook, under Doing Business with One's Agency. It doesn't apply to relatives. It applies to the Public Officer or employee.

The Chair: Is that too lengthy to read to us?

Ms. Coward: Direct me to it again. What was it?

Attorney Teitler: Under Tab 3, Florida Statute, Section 112.313, parenthesis 3, Doing Business with One's Agency. There are sections of Chapter 112 that relate to relatives. But this one --

Mr. Scherer: I think --

Mr. Wolfe: Point of information --

The Chair: One second, Mr. Wolfe. Mr. Scherer?

Mr. Scherer: I think there's a linkage there, Rob. And I think there's an AG opinion on it, maybe a court case on it. You need to check that. I mean, hell, I have forgotten more than -- my wife has a great memory -- I remember things that have never happened. I may be off on that.

Attorney Teitler: I'll look it up.

The Chair: Mr. Fink and then Mr. Wolfe.

Mr. Fink: I agree with Mr. Scherer and Mr. Wolfe and Mr. Bakalar. I think the public is looking for us to remove any potential conflict of interest that cold exist and to make things as transparent as possible and frankly -- a spouse or a domestic partner lobbying in front of the Commission is an inherent conflict of interest and I think we do have the authority, and if we don't, we're back to where we were before. It belongs in the code that these people should not be allowed to lobby or come in front of the Commission.

Mr. Scherer: I think it's broader than just lobbying. I think it's doing business. I mean I think the public does not want a Commissioner's husband, wife, child to be doing substantial or doing business with the County. They can do business elsewhere, but not with the County. And if their business is so substantial with the County, then the Commissioner ought not to be a Commissioner.

I mean, that's -- how does anybody, no matter how pure the motives and how up front -- how can a spouse or family member of a Commissioner do business substantial or otherwise, without the public thinking the fix is in. How can that be?

Mr. Fink: I can't disagree.

The Chair: Mr. Wolfe and then Commissioner Shechter.

Mr. Wolfe: Yeah, I think one of the connections there and let's not kid ourselves. It's been an issue in this building before, but is the monetary compensation of that spouse or domestic partner -- that goes right back to that Commissioner because they live with them.

My view of the Charter Government is that this County can still have regulations that are stricter than state law on themselves and I think that's something the public really demands. And that's the one thing that's very distasteful in this building and it's permeated throughout the entire structure.

The Chair: Commissioner Shechter.

Commissioner Shechter: My only question would be do we have the authority to impose that requirement, Rob, on spouses, or domestic partners, or family members?

Attorney Teitler: Well, the issue is whether that's legal or not.

Commissioner Shechter: Well, that is the issue because if we do have that authority, then by all means, public

or just this Commission alone, that's what we are here for so if we have the authority to go ahead and do that, I think there's no question that we should do it.

Attorney Teitler: And the other issue being that our task is to regulate the behavior of the County Commissioners. I know we are delving --

Commissioner Shechter: But that would be regulating the conduct of the County Commissioners if you are including family that absolutely directly impacts the County Commissioner.

Mr. Scherer: May I argue it this way to you Rob?

Attorney Teitler: Sure.

Mr. Scherer: And that is this. I know state law says that if you are a public official and your outside employment frequently conflicts with your public duties that require you to recuse yourself on an ongoing basis, that you cannot sit as a public official because of that continual contact. You got to resign. Either that or quit doing what you're doing in your outside employment.

And I think it's the same. You're not telling the County Commissioner that their spouse of family member can't do something. You're telling them if they want to be a County Commissioner, you know, that either one of the two has to stop. You're not telling them to stop. But you can't be a County Commissioner. It's simple.

The Chair: Mr. Teitler, do I understand you to say that if it's not a violation to the "Right to Work" law, you don't see it as outside of our scope to pursue, or you do see it as outside of our scope?

Attorney Teitler: Well, I would look even further as to whether that is legal with regard to the Right to Work.

The Chair: Okay, if it's opined it's legal with the Right to Work, I think it's the consensus of the Commission to move forth with it in our code.

Now, I anticipate that you're going to come back with its outside of our scope because it's a spouse.

Mr. Scherer: I don't think so. I think with research you'll find this linkage that I believe is there.

Attorney Teitler: I will look into it.

Mr. Wolfe: I would like to see a Commissioner take this to court.

Mr. Fink: That's the point I was going to make. If he opines that it could be possibly illegal, I want to see who's going to come up and sue.

Mr. Wolfe: We have a severability clause too. If they want to take it to court and it gets thrown out --

Mr. Fink: But the only two people that would take it to court to sue would be either the Commissioner, and I don't see that happening realistically, or the spouse of the domestic

partner, to say it's illegal for you to prevent me from doing business with the city.

And if they take it to court, it's saying something also and putting them in a precarious position.

Attorney Teitler: But it is my feeling at this point that there is a very real issue in terms of the Right to Work and the spouse or relative of a County Commissioner, so that is an issue that I will look into further but that is my initial thought.

Mr. Fink: Right. I agree, Bob.

The Chair: Mr. Bakalar.

Mr. Bakalar: It's an issue but it's not clear cut. Just like a former County Commissioners can't lobby the County Commission for a number of years. They can still be a lobbyist, they can't lobbyist this body so Right to Work to a point. And I would see this -- it's not clear. It could easily fall like that.

Mr. Fink: Can we change this wording that I would like to --

The Chair: Folks, if you would just be recognized, I think we could get through it quite a bit more. Mr. Teitler, it's clear to me, there's consensus here that language end up in this draft. You could do your research and report to us next

Wednesday, but in the meantime, please work that in the new draft. I appreciate it.

Mr. Fink: And that's a prohibition of doing business with the County?

The Chair: Family members doing business or lobbying --

Mr. Fink: Well, lobbying was taken for granted, I'm saying now we're extending it to doing business with the County?

The Chair: Lobbying and doing business. Ms. Coward.

Ms. Coward: On that issue, so when we have proposed those and it's not deemed a violation and it's within our scope and everything, it would then read, instead of must be disclosed, it would just say prohibited?

The Chair: Yes, any other thoughts or comments that came up under Other Business? Ms. Coward, I'm sorry?

Ms. Coward: Isn't there something we wanted to discuss regarding the meeting with the County Commissioners under Other Business?

The Chair: We're going to ask Mr. Teitler to give a report on the discussion of our request yesterday.

Attorney Teitler: The ultimate decision by the Board yesterday was to direct the County Attorney's Office to draft a resolution reflecting their intent in concept to adopt, to have

the Code of Ethics that this Commission sets forth be applicable to County staff and Advisory Boards.

Mr. Scherer: Wasn't there a sentiment that it would only be effective, the vote would only be effective after they saw what we passed and then they would implement it so we're talking about March or April or whenever?

Attorney Teitler: Well, they're reserving the right to read our actual Code of Ethics so they can determine what part, if not all, what parts of the Code of Ethics would be applicable to staff.

Mr. Scherer: See, our idea to bring it to them and have them absolutely do it was to then take the pressure off the local bill. This way they have taken the pressure off themselves without really committing to it so we don't get a local bill and they knock it in the head in March.

Attorney Teitler: Well, they gave some examples I think at the meeting on, you know, possibilities with the Code of Ethics that would not be workable if applied to staff. And they wanted to reserve the right, since they have not seen the final product yet, to be able to see that before they make any final determination on its applicability to staff.

Mr. Scherer: Can you share with us like what? So I know what that is.

Mr. Wolfe: Well, why don't we get the verbatim?

Mr. Fink: Yeah, but I like your question. Mr. Chair?

The Chair: Mr. Fink.

Mr. Fink: If I understood you correctly, a couple of them gave examples.

Attorney Teitler: The one example that I recall off hand dealt with the Selection Committees and that their example was that if County Commissioners were totally banned from the Selection Committees and that complete ban applied to staff, that there would be difficulty staffing those Selection Committees.

Mr. Fink: That's an argument.

The Chair: Well, no, I heard a little bit of the discussion and I've spoken with a few people. I think what they're saying is -- because we're saying what we pass here, we want to apply to staff, their concerns are there are some things that don't apply.

If we end up in our final draft that we pass that there's a total prohibition of any County Commissioner sitting on a Selection Committee, we're also saying that applies to staff.

Mr. Scherer: Because we would come and say not include staff.

Attorney Teitler: They want the benefit of seeing the product.

The Chair: One second. What they're saying is it's not there so how do I know what I'm approving. The other argument was that this applying to all staff is not applicable, down to somebody who works maintenance in the street. Like we said earlier when we talked about the ethics training; at what point do we draw the line -- six thousand employees or at a certain level?

So they're looking for more clarification. Now, I think the bigger issue is, is what Mr. Scherer was just talking about, when I brought up in Agenda 1.

At the end of the day here, we can come back and find out that the County Attorney is going to say it's outside our scope and we can't put it in here for approval without their passing, or without the local bill passing.

So what do we do, when and if, unless the County opinion has a different opinion of the scope that we have, at the end of the day? Mr. Wolfe?

Mr. Wolfe: Well, if we make the unanimous decision to put it in the ordinance, put it in the ordinance, period. If someone wants to go to court, they can remove it and there's severability provisions within those ordinances so that's what we do. That's life.

The Chair: Commissioner Shechter.

Commissioner Shechter: Yeah, I really don't follow this argument because we will submit a code to the Broward Commission. They have two options, either accept it or reject it. If they reject it, it will go to the voters. If the voters approve it, it will have to be the code that are going to have to follow. So I don't see it as a problem. We can put what we have to put into our code and let the Commission make a decision which way they want to go.

The Chair: I'm going to hold further discussion at this time. Time certain public comment. Any members of the public wishing to speak? Ms. Greenbarg? You have three minutes. Thanks for being here.

Ms. Greenbarg: Thank you, my name is Charlotte Greenbarg. I'm President of the Broward Coalition.

We are looking for the most stringent ethics requirements that you can come up with. We have had it up to our earlobes with what is going on in this County. And enough is enough at this point.

We do not think any elected official should be sitting on any Selection Committee. That would apply to the School Board as well. You have one vote as an elected official. You should not have two votes. Your very presence on such a Selection Committee would influence what happens at that committee and that

is totally, totally inappropriate, especially what has been going on in this County recently.

We do not think any spouse should be able to lobby the entities that the spouse or significant other serves as an elected official on. It obviously brings pressure that is untoward and should not be happening.

I don't think Right to Work is a strong reed to lean on. I think it's a weak reed.

(Interruption/technical difficulty with teleconferencing equipment.)

The Chair: I apologize, Ms. Greenbarg. I will extend your time.

Ms. Greenbarg: Thank you. We would like to see a serious consequence -- if a fine is the first time consequence, the second time consequence needs to be removal from office. There really is no cure for unethical behavior if people refuse to follow the law. And if they refuse to follow the law, they don't belong as an elected official.

I don't know what the cure for greed is. I know that a lot of training will help. Some people might know what the rules are. But I suspect they really do know what the rules are, they just choose not to follow them and try to evade them. Not all, I'm not painting with that broad of brush. But we're not

finished with the federal investigation yet. That's something we need to keep in mind. We're not at the bottom of this yet.

So training is fine. Seminars --

(Interruption/technical difficulty with teleconferencing equipment.)

The Chair: Sorry. Go ahead.

Ms. Greenbarg: To require seminars are fine. Pat Gleason helped us out many, many times when we were unsuccessfully trying to get the public record. And Pat has really given us a lot of guidance.

Criminal and civil penalties need to be enforced. The Inspector General is one bureaucracy that we probably need. We are not bureaucracy people is great.

And we are the taxpayers and most of us do not depend on government for our income so that puts us in a different position. In business we didn't depend on government for our income when we were in a business for years in Dade County.

But that's one bureaucracy we probably do need and I agree with the State Attorney in this thing. The IG should not report to the State Attorney. The IG should be an independent entity making the reports and talking directly to the Attorney General because that probably, to get it out of the local county

is the only way we are going to see any results that the people who are paying the bills are looking for.

I am looking at putting it on the ballot because I'm looking at word-smithing that is almost verbal gymnastics. When a body doesn't want something to happen, they can go through the most interesting verbal gymnastics to make sure that it doesn't happen – that the final product doesn't give you what you want it to give you.

So if that should happen, I'm looking for this to go on the ballot and I will guarantee you that we will lead the charge to get the most stringent ethics passed possible and we are going to contact the Legislative Delegation to try to get them to approve that because we think that's important. Thank you.

Mr. Fink: Can we ask questions?

The Chair: We're out of time.

Mr. Fink: We can't ask our questions?

The Chair: Go ahead.

Mr. Fink: Have you heard -- I assume you have been following our deliberations -- have you heard anything that you think we have left out that we need to add?

Ms. Greenbarg: I hear a lot of vacillating. Today I heard less. I'm happy with what I heard today but I've seen in the transcripts that I've gotten, a whole lot of vacillating and

words being used, and how do we do this when it's kind of obvious how you do it. You just put it down in black and white and say this is the way it's going to be. So I'm happier about what I heard today than what I've read in the past in transcripts.

The Chair: Mr. Scherer.

Mr. Scherer: You know that we don't vote on this until February.

Ms. Greenbarg: Right.

Mr. Scherer: So we're just exploring on the other hand. None of this is etched in stone. It's going to take a majority vote of this Commission to do anything. And it could all be changed on the last day.

Ms. Greenbarg: Which would be unfortunate.

Mr. Scherer: Well, my point is we're not there yet; we're still baking the cake.

Ms. Greenbarg: Well, how long have been doing this?

Mr. Scherer: Since April

Ms. Greenbarg: Since April.

Mr. Scherer: Seems like forever.

Ms. Greenbarg: It's been a year. It's time. It's time.

Mr. Scherer: And I'm going to register as a lobbyist so I won't get appointed by one of those appointment spots on the permanent supervisory commission.

The Chair: Thank you, Ms. Greenbarg. Mr. Russell Rand. Mr. Rand, thank you for being here. You have three minutes, sir, barring any interruptions. I may extend your time.

Mr. Rand: Russell Rand. I have appeared before. And I have been doing this for 33 years. As you know, I'm a contaminated whistleblower. The County did an audit of the Human Resources; had to do with high performing/low performing -- 29 evaluations -- all exceeded expectations or excellent rapid reward, bonus, accommodation from the state, etc. But I was fired for misconduct.

In 27 years, I have two pieces of paper; two of the things. In the last two years, there were 34 incidences which would take 476 years or 16 lifetimes, but it happened in two years, which is 240 times greater rate – science.

I appeared before the Charter Review in May of '02 and I said there was no whistleblower protection, there was no accountability, there was no ethics. A few days later, the Director of Human Resources filed a false sexual harassment against me, without the permission or consent of the clerk who vehemently denied verbally and in writing that no such thing was going on.

The County dragged it on for four months. Multiple disciplines, suspension. I wrote to the Chair, Lori Parrish, disciplined. Filed a complaint with the Federal Equal.

Suspended six days without pay. Wrote to the Commission. Was fired for the miscommunication, including the drug manufacturing and theft of chemicals, etc., that led to the arrest of the chemical engineer.

The County Administration denied the grievance, didn't look at any paper. Nobody testified. They've all signed the forms. I have the forms that they will abide by the law. They don't do that -- cooked the scam with the union. There was no arbitration. I filed a retaliation complaint form with the County Administration. It was dismissed. Said it had already been addressed by his predecessor five years before the termination. How is it possible to do such a thing.

So, again, there is no whistleblower protection. If there's huge carrots for wrongdoing and only sticks for right-doing, than we are going down the toilet here.

So I'm contaminated for one-third of a century. They just accepted a quarter of a million promising not to sexually harass as part of the contract, to do air-monitoring that I used to do. But they won't do medical monitoring that is required by federal law. So they're not following the Constitution of the United States. Saying you can't take property without due process and just cause.

I was fired for coming back from lunch early. For carpooling. For the miscommunication. Again, there's no checks

and balances and you know, this is way too little too late. This is costing billions of dollars. I have limited money of course. They have billions of dollars to play games. These are games. This has gone on for 33 years.

The Chair: Thank you, Mr. Rand.

Mr. Rand: I'll die before I see ethics.

The Chair: Thank you.

Mr. Rand: You're welcome. I'm here to help, I'm not the enemy. These people know wrongdoing. Unless they come forward, we can't fix the process.

The Chair: Thank you, sir. Any other issues under Other Business? I would accept a motion to adjourn.

Ms. Coward: Just one question. Do we have the date for the vote yet?

The Chair: We don't. Our next meeting will be next Wednesday, the 13th, and then following the 20th, we haven't set -- February meetings are the 10th and the 24th right now. Am I correct? Does anybody have that different. It's actually the 10th. So unless we add a meeting, that will be our final vote.

Commissioner Shechter: Wait until January 20th?

The Chair: Yeah, we'll wait until the 20th, if that's all right with you. I apologize, I need approval for the minutes from the last meeting.

Moved by Mr. Wolfe and seconded by Commissioner Shechter. All in favor, signify by saying aye. Any opposed, same sign. **(Mr. Scherer out of the meeting room at the time of the vote – motion passed by majority vote.)**

Thank you very much. Motion to adjourn. Motion by Mr. Wolfe, seconded by Mr. Fink.

Thank you, have a great day.

(The meeting was adjourned at 11:10 a.m.)

BROWARD COUNTY ETHICS COMMISSION

January 13, 2010

MEMBERS: City Commissioner Neal de Jesus, Cooper City - Chair
PRESENT City Commissioner Carl Shechter, City of Pembroke Pines - Vice Chair
Washington Collado
Alfreda Coward
Robin Rorapaugh
William Scherer
Robert Wolfe, Jr.
Kenneth Fink (telephonic)
City Commissioner Felicia Brunson, City of West Park (telephonic)

ALSO Monica Cepero, Assistant to the County Administrator
PRESENT: Robert Teitler, Assistant County Attorney
Broward County Mayor Ken Keechl
Broward County Commissioner Stacy Ritter
Brad Seff, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 9:30 a.m. on January 13, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

COMMISSIONER DE JESUS: It is 9:33. We're going to call the meeting to order.

May I have roll call please?

(Roll call was taken at this time.)

Thank you, very much.

Folks, before we get started, once again just a reminder, if we could try to be acknowledged by the Chair so we could move forth, I'd like to try to get through as much of this working draft as possible today, utilizing the next two meetings that we have currently scheduled, the 20th and the 10th or at least the majority thereof, to begin to finalize some of these issues that we have on here in preparation of either adding more meetings in February or being prepared to vote on our recommended code of ethics to present to the County Commission so they could put it on their first meeting in March.

With that being said, those members that are on the phone, please just shout if you'd like to be recognized and I will call on you as well.

The agenda calls for Mayor Ken Keechl who has requested to come speak to us time certain at 10. We will go past that at this point and move on to our continuation of working draft.

With that being said, we left off last meeting at enforcement, and number 1, office of Inspector General. I will open the floor at this time to any member wishing to comment on that item?

MR. SCHERER: Where are we, Mr. Chairman?

COMMISSIONER DE JESUS: Page 12, D 1. Thank you for numbering. Page 10. I don't know how I got 12, on mine. Page 10.

Mr. Teitler, if I could request as we get these copies, I know you have been consistent now with keeping draft on there and we have asked you to number them. Could you date them as well for us, a revised date? That way it will help us keep track as well.

So we're on page 10, D 1. Welcome Commissioner Ritter. How are you?

Mr. Scherer, did you have a comment?

MR. SCHERER: Do you think I just naturally, automatically are going to have one?

COMMISSIONER DE JESUS: No. I thought you asked to be acknowledged.

MR. SCHERER: Yes, I will have a comment but no, I didn't ask.

COMMISSIONER DE JESUS: Does any member wish to comment on this item?

MR. SCHERER: I do.

COMMISSIONER DE JESUS: Mr. Scherer.

MR. SCHERER: I'm the ever optimist and I'm hopeful we will get -- I'm optimistic that we will get the Legislative Delegation with this request, but I'm also a realist and think maybe that we would, we should take that proposed legislation that has some thoughtful provisions in it and put it in here and kind of work off of that and eliminate or add to that draft in what we might like to have here and figure out how we could get it implemented if the Legislative Delegation rejects it at the end of this month, at their last delegation meeting.

COMMISSIONER DE JESUS: Mr. Teitler.

MR. TEITLER: I think probably the easiest way to do this in the time constraints that we have, probably the most effective way is to put in our code, the section on Inspector General, include in there exactly what you want in any ensuing ordinance, assuming there is no legislation coming from it, because then the actual drafting of the Inspector General ordinance is going to take considerable time, but if we put in the code under the section exactly what this Commission wants in it, then that is what any up-coming ordinance would have in it.

MR. SCHERER: That is what I meant to say.

COMMISSIONER DE JESUS: Okay.

MR. SCHERER: I agree with that. I think that is what we ought to do, and if we want to go to it now, we can just pass it out and assume that is going to be in there and we can take a look at some of those provisions.

COMMISSIONER DE JESUS: Since we're on the item, maybe we can just go through that and either accept or strike through what we don't think is applicable and move through it that way. Do we have copies of that here?

MR. WOLFE: It's the same copies we distributed last month.

MR. SCHERER: I apologize. I don't have my copy with me.

COMMISSIONER DE JESUS: Mr. Wolfe has a copy. Can you get some copies made and in the meantime we will move on. While we're awaiting the copy, why don't we move to number 2, panel of hearing officers, functions authorities and powers. I guess that would be in line with what comes out of the IG, correct? Number 3, sanctions.

MR. SCHERER: Those are in there as well.

COMMISSIONER DE JESUS: Same. B, public reprimand, censor.

MR. SCHERER: I'm not sure. I read that a few times while I was waiting to speak. I'm learning a lot about the fire code.

MS. RORAPAUGH: Quite a bit.

MR. SCHERER: I heard that twice. I was at two meetings.

MS. RORAPAUGH: I heard it two years ago.

MR. SCHERER: That is a joke. Fire fighters had an issue and we had to listen to it first and it was on and on and on.

COMMISSIONER DE JESUS: Those fire fighters can be difficult.

MR. SCHERER: I know. I heard that. I'm finding that out.

MR. FINK: Mr. Chair.

COMMISSIONER DE JESUS: Sir.

MR. FINK: If we're talking about sanctions; is that what I heard you say?

COMMISSIONER DE JESUS: Sanctions are within the local bill that was proposed and we're waiting on copies of that bill to address that issue under Inspector General. We're on to public reprimand censor.

MS. RORAPAUGH: Mr. Chairman, while we're waiting for copies, possibly Mr. Scherer could report to the full Commission what happened at the delegation meeting and what the future meetings are going to be with the delegation.

COMMISSIONER DE JESUS: I thought we did that last meeting.

MS. RORAPAUGH: I think we had -- subsequently there was another delegation meeting.

COMMISSIONER DE JESUS: Okay. I was there.

MR. SCHERER: Yes. You were there.

COMMISSIONER DE JESUS: Mr. Scherer.

MR. SCHERER: Well, I'm happy to report. You folks that were there could chime in and help.

We were unsuccessful in really either of our proposed special bills. The easy one was taken first and that would be the one that the Commission imposed its own

code on staff and pretty astoundingly, that was rejected. Everybody felt that was going to be the easy pass because there really wasn't much opposition to it, we didn't think, but it failed by one vote. Actually it prevailed but it lost because it didn't have a majority of the representatives. The attendance was not very good. I think half the members were not there and if we had a full delegation it might have been different. And the Inspector General which drew more opposition or hostile questioning, if you will, the Tuesday before, of me, of the bill I didn't really draft, which was sort of interesting, was pulled for the end of -- there is apparently going to be a final session at the end of January and if these bills aren't approved, then they don't meet the rules of the legislature, not just local rules but local bills, because they have to be filed at the end of February.

So, I'm of the view that if we make a concerted effort to get the full delegation there, we could get that bill passed. It would take somebody that voted in the negative to ask to reconsider and we ought to be able to get one of those people to reconsider, and I know that there are efforts under way to do that by some of the folks out there that are helping us try to get this ethics code passed and amended. But I think that with respect to the Inspector General portion of the bill that is going to take some concentrated effort also -- that bill that was drafted, they used legislative staff to do that. Gene Steinfeld did a wonderful job with it and I believe he got help from whatever committees; permit committees in the house there helped him do that bill. That was apparently modeled after model legislation that had been opposed before, so its a pretty interesting draft. I don't think it has a chance of passing if the same bunch comes to the meeting that was there before and we don't get -- the rest of the representatives don't

come, in my opinion. And I don't know why there's resistance there. We all read about the resistance in the newspaper and what they said. They said they didn't want to meddle in county politics, number one, and number two, they had reservations about passing a code that didn't exist, ignoring the fact that there is an existing code that would apply, if the county says to apply it and when the amended one is amended, that would apply also. Those were the arguments.

COMMISSIONER DE JESUS: Which is a moot point now since the County Commission passed that resolution yesterday.

Mr. Wolfe.

MR. WOLFE: I was attending the meeting as well. I was disappointed at the lack of concern by a few of the members of the Legislative Delegation. However to put it in proper context, there was just a pathetic turn out that night, and Representative Hudson had to leave for another meeting and that would have given us another vote. I haven't spoken to Representative Bogdanoff. I hope she moves forward and asks for reconsideration of the item, but it would be contingent on a full turn out of the Broward Legislative Delegation, which is a tough thing. I mean, it would require Ellyn to put some arms and get members there, and I hope she does it, but some of the responses by a few of the members is just pathetic, and I thank the newspapers for turning on the heat a little bit. I hope they took the time to read the editorials in the paper, in both the Miami Herald and the Sun-Sentinel.

MR. SCHERER: What happened yesterday at the Commission?

COMMISSIONER DE JESUS: Mr. Teitler.

MR. TEITLER: The resolution that was discussed a week prior was approved without comment, and it is --

MS. CEPERO: I e-mailed it out to everybody yesterday.

MR. SCHERER: I do have a day job. I didn't read it. Can you tell me what it is?

COMMISSIONER DE JESUS: Commissioner Ritter, would you like to address the Commission? I would be glad to open the floor to you, if you do.

MR. WOLFE: One other point.

I understand that if there is an additional -- we have some timing problems because they are up in Tallahassee for two weeks but they are looking at, I think Ari is looking at the 29th, Friday afternoon, if there is going to be another delegation, probably in the mid-afternoon. That is the date they are looking at right now but it's not finalized yet.

COMMISSIONER DE JESUS: Thank you.

Commissioner Ritter, welcome. While I recognize you, I just want you to know we have Commissioner Keechl scheduled on the agenda for time certain at 10.

MAYOR RITTER: Okay.

COMMISSIONER DE JESUS: The floor is yours.

MAYOR RITTER: Well, thanks. I didn't ask to be on the agenda, so I appreciate you giving me a couple of minutes.

I have spent some time -- good morning everybody. Thank you for your service. I have spent some time going through the minutes of the past several meetings, and have been quite frankly disturbed at some of the comments that have been coming from this Committee and feel there are some assumptions that have been made here that

are, quite frankly, wrong. I have seen it in other Commissions and Committees where you are asked to do things and you may not know exactly what the Commission does, so you are asking for changes to stuff that you're really not sure what we do. I've see it with the Management and Efficiency Study Committee, on which I sit. There are lots of decisions and conversations being said about things we already do, that people don't know we do or things we have tried to do that haven't worked. And there is not a whole lot of knowledge of the process, and I found that true in some of the comments that have come from this Commission. Just having received your draft, which is skeletal, it's going to be hard for me to make any comments on that specifically, but I'm concerned that there appears to be a perception from this group that the County Commission is full of corrupt elected officials who want nothing better than to line their pockets, and to date, we have had, since I have been on the Commission, in November 2006, one County Commissioner who has pled guilty to an offense that had nothing to do with his office and has been charged with an offense that has something to do with land use, not procurement, yet you have chosen to focus on procurement, and I haven't received a single e-mail from anybody in this county, either way, that focuses on procurement. There has never been a hint of scandal, as it relates to Broward County's procurement process, and yet, you wish to change a system that is quite frankly not broken. And I was most disturbed by my colleague Commissioner Wexler's comments as it relates to procurement, and what she perceives to be an issue, which I quite frankly don't see. You had all discussed with her, and this is the meeting she attended and I have lots of tabs that made me scratch my head, but she -- the Commissioner who sits on the most selection committees and who actually raised her hand three times yesterday to sit on

the three selection committees that were on the agenda, seems to feel that Commissioners don't belong on the selection committee. Well, I like to lead by example, so if I don't think something should happen, I don't participate in the process. And so I scratch my head when one of my colleagues comes and says we should change something that she participates in quite freely, and gleefully, I might add.

When the conversation came to sand bagging, lots of people come to the table with agendas. I dare say that some of you have come with agendas too, which may not be what you are putting down on the public comment, but that doesn't make it illegal and it certainly doesn't make it unethical. If I'm sitting in a selection committee and I think company A is the best company, but company B is the stiffest competition, I may well choose to rank company B lower because I think company A should win. There is nothing wrong with that. There is nothing illegal or unethical in that, and if you want to know the reasons why we vote, all you have to do is ask us. Sometimes you will get the right answer and sometimes you will get the couched answer, but that is politics. I don't think the selection committee is broken.

Commissioner Wexler talked about intimidation of staff. The County Commission doesn't hire and fire staff, so they shouldn't be intimidated by us because we're not their bosses. The County Administrator is their bosses. And if they have issues with the County Administrator, they should take it up with her, not with us because we don't hire and fire the people that are sitting at the table with you.

There was a comment that not a lot of questions are asked by staff at selection committees because of the intimidation. I don't ask a lot of questions at selection committees, and I can promise you, I'm not intimidated by a single one of my

colleagues. That is not the reason I don't ask questions. I don't ask questions because I read the proposals, which are thorough, and I listen and watch the presentations, which are equally thorough, and I make up my mind based on the proposals and the presentations. There is no intimidation there. I get my questions answered either beforehand or in the proposal and the presentation.

I think that your Inspector General local bill has some problems with it. You are allowing somebody who basically does what the auditor does. We're already paying for somebody to do much of what the Inspector General does, and I don't think the county needs an Inspector General and an auditor to overlap each other, and I think the County Commission, by the way -- I would certainly be willing to put an ordinance on the agenda to talk about an Inspector General. It's funny you want the Legislature to meddle in this, because in 2000, Mr. Scherer, you and I were on the same side of a strong mayor, to try to curtail the Legislators attempt to meddle into county business by putting a strong mayor on the ballot. We were at the same table to kill it, and our argument was, the Legislature shouldn't meddle in county business. They should take care of their own house and let the County Commission take care of its own house, but 10 years later, I know times change, people change and issues change, but I don't think the Legislature should meddle.

I think that there are, by the way, Legislatures who have been accused of things. Legislatures who have gone to jail, but I don't see you talking about them. There are Legislatures who actually work for businesses that have business in front of the Legislature, and vote on their issues, but I don't see you talk about their conflicts. I don't see you talk about the conflicts in Congress. I see you talk about selection committees,

that Congress doesn't sit on selection committees; that the Legislature doesn't sit on selection committees. But the Legislature doesn't sit as the executive branch, which the County Commission does. The Legislature doesn't sit as the judicial branch, which the County Commission sometimes does, and we always sit as the Legislative branch. So really you can't compare -- and by the way, I have experience. I can speak from both angles. I was a Legislature. I know what is going on up there that nobody seems to care about. All you seem to care about is one of us is going to jail for something that had nothing to do with what he did here at the county, and I do not mean to diminish the offense. It was horrendous and no elected official should ever betray the public confidence, but you're going to allow an Inspector General to investigate anonymous complaints. Now as someone who has been the subject of anonymous attackers on the web, I can tell you that is really harmful. I believe also I have a constitutional amendment to confront my accuser. Now with an anonymous complaint, I lose that. How can you do that? How can you not let me, if I'm accused of something, defend myself to the person who is the accuser. I could go on. I have lots of notes and tabs.

I notice that last week you had Charlotte Greenbar come to speak to you. She notoriously hates the County Commission. She notoriously hates the School Board. She made some comments about School Board members shouldn't sit on selection committees either, but I don't see anybody talking about that either, and I recognize that your purview is the County Commission, yet you have on occasion, gone outside of that and discussed things that are not within the quote purview of the Ethics Commission. If you want to, and we all want to make sure that our elected officials are trustworthy, and by the way, I'm not sure you could ever make 100 percent of the public believe that that

is true. Those people who think we're dirty will always think we're dirty, no matter what we do or say, and those people who think we aren't will always think that. Then you might want to broaden it. You might want to broaden your local bill and say you know, it applies it Legislatures too, and it applies to municipal officials and it applies to the School Board and it applies to the Hospital District Commissioners and it applies to every Water Control Board supervisor in this county, to every single special district supervisor in this county, which there are 97, because quite frankly to single out the County Commissioner for something is wrong. If you want to talk about elected officials and corruption, let's talk about elected officials and corruption, but to paint us all on this County Commission with a broad brush, when I have seen members do nothing illegal or unethical -- I have seen members do things for their own reasons, which I may not agree with, but they are elected to do that, and if the public doesn't like the job we're doing, then the public knows how to get rid of us

COMMISSIONER DE JESUS: Commissioner, we have three minutes before Mayor Keechl's appointed time. Can I ask that we give an opportunity for any Ethics Committee member who has questions for you while you are here --

MAYOR RITTER: Sure.

COMMISSIONER DE JESUS: -- based on anything you said or not said.

Any members have any questions or comments?

MAYOR RITTER: I don't think I'm going to change any minds. I think we already know where you guys are headed.

MR. SCHERER: I have a comment.

COMMISSIONER DE JESUS: Mr. Scherer.

MR. SCHERER: Commissioner, I have supported you throughout your entire public career, I think. You can agree or disagree with that. I think I have supported you at every turn, at every office, at every opportunity when you have asked, but you are absolutely dead wrong with the procurement policies of this county. The public perception, the perception in this committee, the public perception is that it is a corrupter and that you folks shouldn't sit on procurement. That is the facts that I believe, based on sitting here since April, listening to the comments and reading and studying on this issue. You know, I have been involved in your procurement process a little bit, particularly with the parking garage, and 20 years ago with smoker park, and in those two -- that is my experience, so I'm assuming that is what you were alluding too, but the procurement process, where big jobs require lobbyists adds on additional cost to what the public is spending, and it undermines the confidence in the process, in my opinion. So I'm going to disagree with you on that. I don't think you are an offender. I don't think that at all, and I will affirm that right now. I think that you are a great public servant. I don't think there is a conflict with your husband either, doing his job. I couldn't agree with you more about the ethics of the legislature or the lack thereof. As a matter of fact I think I made a comment to somebody kind of the other day that we have a problem and when they pointed out this became a partisan issue because I'm a Republican and Bogdanoff, who is my representative happens to be a Republican and that it was a Republican issue that I had not even thought about, and I said, “Hell, I think the Republicans in the Legislature have the same kind of issues that we have in the county,” but we have an underlined -- the public is undermining your function, your role in government, and I came to this Commission because Commissioner Rodstrom asked

me to, over objection, but I knew I would come to it and I have only one condition, that I do what the heck I want to do, and I have been studying it and I have tried to make myself pretty informed and I think we're -- of course we're struggling to do it. It's a huge job in part because there are holes in the system and why we went to the local bill is because the County Attorney has told us that perhaps the two issues, as to the Inspector General and to applying the code, the Commission, to the employees, was beyond our scope. That was my idea.

COMMISSIONER DE JESUS: If I could ask you conclude your thoughts.

MR. SCHERER: Well, that was my answer. I didn't write them down, but that was my idea and that is why we did it. I moved it but it was unanimous, I believe, and some of the folks at this table -- as a matter of fact, most are pretty experienced people, so we're doing what we were charged to do and sometimes the process and the comments made aren't necessarily reflective of how it's going to end. You should know that, in the sausage making process, because we're making sausage here, too.

MAYOR RITTER: If I may conclude.

COMMISSIONER DE JESUS: If you could close, because the Mayor is here for his appointed time.

MAYOR RITTER: Thank you.

And this isn't personal, Bill. You and I have a personal relationship that completely transcends this, and I hope that you would know that. We're disagreeing on an issue, but we're not disagreeable. I still count you as a friend and I still hope that you count me as one at the end of the day.

MR. SCHERER: I do.

MAYOR RITTER: I think that perception of lobbyists is also misunderstood. And lobbyists purvey the system anyway. Politics and lobbyists, just like politics and sex sort of go hand-in-hand, sometimes in my house they are one and the same, but we just had a major procurement on the court house. Construction manager on the court house, the winner had no lobbyist, knocked on everyone of our doors all by himself.

MR. SCHERER: That is why I fired mine.

MAYOR RITTER: Well, good for you.

But the point is that yes, sometimes it happens that way and sometimes it doesn't. We just did the financial services. Now the winner did have representation. The person I voted for had no representation. It happens. It's not always the fact that the lobbyist client wins, but it is sometimes the fact. That is just true in life. Lawyers represent clients. We want our clients to win, just like the lobbyists want our clients to win. And by the way, I told my appointment, Ken Fink, that he is free to do -- not told me. He can do whatever he wants. He is a grown man. But I have put no pressure on him --

MR. FINK: Thank you.

MAYOR RITTER: -- and he and I have argued like cats and dogs on this. We have screamed at each other, but at the end of the day he is going to do what he thinks is right and I'm going to tell him he is wrong, but I think if you are moving towards a, Miami Dade system, which is what looks like is happening, is a big mistake. The last major project in Broward County was the rental car center at the airport. Before my time, Commissioners sat on the selection committee. It came in under budget and on time. The last major project in Miami Dade was the airport, which came in a billion

dollars over budget and did not come in on time, and the only people that you can complain to are the staff, not the elected officials, and I mean no disrespect to the staff, but the staff controlled the process in Miami Dade and staff spoke to the staff, not to the elected officials.

So at the end of the day, if you are looking for accountability and transparency, in my opinion, and with all due respect to this Committee and the intelligence of this Committee, I think you're heading down the wrong path. You will not find accountability or transparency if you hand this over to the non-elected officials. Thank you.

COMMISSIONER DE JESUS: Thanks for your time.

MAYOR RITTER: Thanks for letting me speak. I didn't -- I came to monitor, but a politician with a microphone. Good luck.

COMMISSIONER DE JESUS: Thanks for sharing your thoughts.

Mayor Keechl. Welcome Mayor. Thanks for joining us.

MAYOR KEECHL: Thanks for having me. I know you guys are very busy. I won't take much of your time. If I had known Commissioner Ritter would have been here I with have done it a different day so you guys could get your business done.

I just wanted to stop by, as the Mayor of Broward County, to chat with you a few minutes and give you my perspective of what is going on. I want to say a couple of things. First of all, I don't know where you all are going, but I do know you are working in good faith. There is no doubt in my mind. I think you're a strong willed group. I have watched, read every meeting. I know everything you guys have been doing, and I have been meeting with Monica after each meeting to get an update.

A couple of things I want to get out of the way. It was very interesting hearing Commissioner Ritter at the end, and I'm sure I don't need to say this, but I'm going to say it anyway. My appointee was never given instructions to vote any particular way. As a matter of fact, that is why I picked my appointee, because he is from a different party and I wanted a different view point. However because he is one of those individual who cares about what he is doing; he has asked me out for cocktails every so often and we have gone over my views, which are no different than the views I expressed when I met with you guys originally, but I don't expect him to vote any particular way, and I do appreciate Mr. Wolfe, the fact that you were expressing my views, even if they are different than your own.

I have kind of, as we have gone through this process and everything has unfolded around us -- you may remember help I came here the first time, I was actually shocked by Neal's comment to me, don't you think there is a conflict you are on a selection committees and I have said, “Well, wait a minute, I was elected by the people of Broward County, I should be on them.” I still hold that view, but perception is reality, and there is no doubt in my mind that the perception out there is that the system is broken, and so in reviewing, talking with my appointee, listening to your comments, reading the newspaper, seeing what is going on with the County Commission, with one Commissioner going down, and God knows if there are more, the School Board, various cities, the Sun-Sentinel articles, I think the people are clamoring for some kind of change, and I'm smart enough, I hope, to see where this is all going, so my reason for being here is to tell you that, you know, if it is the collective will of this group to limit the number of Commissioners who serve on a selection committee, so be it. As

Commissioner Wexler said to you a couple of meetings ago, I intend, like she does, to vote for whatever you put out there. I guess there are a couple of fatal things, if you said it me I couldn't have an outside job, I probably would not vote for it or would sue to have that put, but generally I see where you guys are -- I see where you're going. I see what is in the proposals. You are trying to do the right thing. You're not trying to go too far one way or rubber stamp the system as it is now, so I'm comfortable that what the product that comes out of here is something I can live with. If I'm not taking lunches anymore, so be it. If I'm not lobbying down, good for you all for stopping it. If you limit my ability to raise money for charities or other politicians, I'm going to be very upset about it and hopefully you're not going there because I think there are constitutional issues. But if you limit the number of selection committee members, maybe we're going to instill some belief in the people of Broward County that the system is being fixed, and so I don't want to repeat myself from what I said last time about the unintended consequences of what you are doing, because I'm not sure what they are.

We have had a couple of selection committee issues since I saw you last, where we are on the dais arguing. Boy, is that uncomfortable. It drags those meetings out forever, but maybe that is just going to be a natural result of what you are doing. I do believe with regard to this issue, if you limit it to two, and I have seen that number, please be careful how you decide who the two are. I don't think the Mayor should have the right -- and I'm the Mayor this year, and if we get this voted, I probably will be the Mayor when it goes into effect, because I do believe it will pass, but I don't think the Mayor should have the right to select. There is too much politics going on. Is it a blind draw? That might work. Maybe it becomes a blind draw after more than two

Commissioners say they want to serve. I think a rotating list is problematic, because I control the agenda. I knock things off the agenda, so if all of a sudden I see a good selection committee item coming up, I can play politics. Think about those things, but that gets me back to really where I want to go, which is you -- I have shown you, I believe my good faith, with my acceptance of where I think you're going, with limiting the number of Commissioners on a selection committee. I agree with you, this should apply to our employees. I was happy to see what you did. I sponsored it myself. If you were watching, I argued it. I believe there was an overwhelming view that this should apply to our employees. There were maybe a couple of Commissioners who were fighting it, but, you know, in the end it was a nine to zero vote to accept the concept that the reasonable restrictions that you guys will enact, and I know it will be reasonable, will apply to our employees. And I commit to you, as the Mayor of Broward County, I will see through on that, because I do believe that, as Mr. Wolfe has said to me many times privately and probably publicly, they have a lot of power, and so we need to be careful with the unintended consequences.

A couple of final things, and then I will take any questions and get out of your hair.

COMMISSIONER DE JESUS: No pun intended.

MAYOR KEECHL: Very good, Neal.

I would hope that you guys could get this drafted as soon as possible. There is some issue in my mind as to how this collaborative process works. I know you guys are working hard and you have a number of meetings going on because you are trying to get to us by the deadline, I think of March 2, which is on the other paper. If you could

get the document done before March 2, I think it would be a good idea, so the public could look at the final document and my colleagues could discuss it, if not on the dais, at least here, because I don't know -- I publicly said that I want this passed by the Commission, not the voters. I think it also sends a second message, when we voluntarily do this. And so I understand how politics works and you know to try to wrap it up as quickly as you can so you could at least hear from those -- you may not change your mind. You may hear something that causes you to modify something, but at least when we get it on the dais and I put it on the dais and I argue for it along with the other Commissioners who are supportive of what you are doing, we can all say due process occurred and everybody saw the final product and had a chance to talk to you.

Lastly, I'm going to say one other thing. I think we're in a different world. I really do, and I don't think it's over. I don't think the investigations are over, and so whether or not you have the jurisdiction to include employees isn't the question anymore to me, because I have the jurisdiction, and you showed me I have the jurisdiction, and so I'm going to be looking at the final work product very carefully, because by super majority vote of six Commissioners, we can put anything we want on the charter. We can apply this probably to the School Board. We can apply these reasonable rules to the Constitutional Officers and maybe we could even apply these reasonable rules to cities themselves.

So I just wanted to give you that update and tell you I appreciate the work you are doing and I think you can tell from the resolution and my comments today that the majority of the Commission is supportive of what you are doing.

Is there anything you want to ask me before I leave?

COMMISSIONER DE JESUS: Mayor, I'd like to thank you for your support on this issue and your very public position in supporting us and working with us to get it drafted.

With that being said, I will open the floor to any member who would like to comment.

Mr. Scherer.

MR. SCHERER: I don't know that I have to lead it, but I'm happy -- I applaud your efforts to have the -- to shortcut our need to have the Legislature do what we were advised was a lack of our jurisdiction concerning having the employees covered, particularly if the procurement code is changed and the employees take a greater role then they do now, and we believe collectively, probably unanimously, that the employees on the selection committee right now, other than working it up, keep their mouths shut while you guys debate it and vote, and that they don't participate in that actual selection and we don't believe there is very many important situations that are ever determined by staff overruling the Commissioners on an issue when there is a lot of Commissioners. It always goes the way the Commissioners -- the majority of the Commissioners go, just about. Maybe not always, but on every major decision.

MAYOR KEECHL: On the big ones, probably.

MR. SCHERER: On every big decision that I know of for 20 years, so, we're going to try to change that and I think -- because I think the public wants us to change that, and I concur with you, we're not done yet with respect to what is going to happen with investigations, so I applaud your efforts.

You know, the Inspector General idea was ours to try to shortcut and not have a permanent Ethics Commission, where Dade County spends 15 million dollars a year to get a product which we don't think is any better than what we have here right now, so we're trying to figure out away to shortcut that, have one independent, very independent person to be the compliance officer or the Inspector General and use compliance officer federal guidelines that the federal government requires of all corporations to have compliance officers, when they do substantial federal business like health care and other business. I mean the models are there, including a hot line for anonymous complaints, by the way, but you guys could do that. We wouldn't have to, and frankly you could do it by the county, but you just hit a responsive nerve that I would like to explore. And you just said it with respect to the charter. Our charter can only be amended by the Charter Commission every decade and the super majority of the Commission, and the problem has been in the past that the Charter Review Commissions, every decade, are corrupted by their appointed representatives who won't let them do what they probably would do otherwise, in my judgment, and if you studied that record you would find that to be so. They, like us -- and I'm worried about us. We debate and we explore all the issues and when we get time to vote, I'm worried that the majority of us won't vote for what we all really want. I worry about that, and I'm just passing that out. Now you said, and I truly believe Mr. Wolfe is independent. I truly believe everybody is independent in their hearts, but I don't know what happens when we get the calls the night before we finally vote. I don't know how that is going to work.

MAYOR KEECHL: Can I respond to a couple of things?

I think, this is just me looking to your group and watching everything that happened and having watched the Charter Review, and remember, I have only been in office three years. I was actually stunned by Charter Review. I had no appointees. Jim Scott appointed two wonderful gentlemen and under the charter I couldn't remove them, even if I wanted to. Not that I wanted to. I didn't know them. But I watched the stronger Mayor argument with interest, because I'm one of the few Commissioners who believes we should have a stronger Mayor, and I thought the workshop and I guess the press were making progress, just to watch the last meeting, right before the vote, the whole thing unraveled. But the perception I get, and maybe it's because of Robert, Mr. Wolfe, you guys seem to be much more independent from your appointers'.

MR. SCHERER: We haven't pulled the trigger yet.

MAYOR KEECHL: Well, don't forget, you have nine plus two. The two have no one they are answering to because they come from the League of Cities. You are pretty independent. I know mine is independent. I know Mr. Fink is pretty independent and I know most of you. The issue again with regard to that is reasonableness. I can't talk to my colleagues other than on the dais about what their views are. I can listen to them some times, but I can't have a personal conversation with someone, one of my colleagues about what they want, so if you get rid of every Commissioner on the selection committee, will you see an attempt by my colleagues to stop it? Maybe. I find it hard to believe that limiting the number to two, three, one, whatever it is, is going to upset the apple cart so much that it's going to be undone, but I guess we're going to find out. I do believe there is a role for the Commissioner on the selection committee, and so I would hope you keep at least one or two on.

With regard to the Inspector General, I have looked at that legislation, but I haven't studied it very well.

MR. SCHERER: Well, it's just a draft. You know its got to go a long way to become really --

MAYOR KEECHL: Well, what I found interesting in it -- it ties back to something I said today.

If we're going to change the perception of the system, then you don't just do it with County Commissioners. I believe the County Commissioners that I serve with are basically good people, and I didn't know Commissioner Eggelletion very well and I'm still in shock about that, but I believe the vast majority, if not all of the people that I serve with, are not crooks, but this isn't about that anymore. That is about perception, and we need change. I'm saying that because -- I looked at the bill, and I only looked at it one time. I met with Monica, you had it applying to us and there was a section where cities could opt in, and I thought that is where I got my idea. I said let's see where this goes. You come up with a reasonable proposal. Maybe I should be proposing one day that -- on the ballot, that we apply it to the cities and School Board. And then you have an Inspector General who is actually doing something. The idea that you have an Inspector General or somebody just looking at the nine of us, makes us kind of nervous because we're in a political environment where we are being attacked every day on blogs and the things they say about us, thank God our egos are so big that we want to be in this job because no normal person would want to be attacked like this.

MR. SCHERER: Amen.

MAYOR KEECHL: But if you have somebody who is tasked with hearing complaints, County Commission, the School Board, BSO, the Property Appraiser, the cities, now you are doing something. So I like that idea, but I want to see where you guys go with it, to figure out where I am going to go with it.

MR. WOLFE: First of all, thanks for the nice comments. It's a pleasure to represent our district in this issue. It is difficult. There are time constraints involved, and one thing I like about the Inspector General concept, it does allow that opt in, and I do agree with you, Mayor, that this is something that I think should apply to other entities, whether constitutional officers. We have a set of ethics in our office, but I think everybody should be under the same plan. Every employee in this county ought to be under an ethics code. Your remarks are so refreshing compared to Stacy's before.

MAYOR KEECHL: I didn't listen to hers.

MR. WOLFE: She pretty much dug her heels in opposition, and there still is a thought in this building that what the Commissioner that was removed didn't do anything in conjunction with his job, and that is -- taking a golf bag full of cash is not doing something against your job? Some people just don't get it. But anyway I appreciate everything you say. I agree with you.

One thing I think you want to clarify with this Board, is on the procurement process, you still feel strongly it ought to include one or two County Commissioners?

MAYOR KEECHL: I do.

MR. WOLFE: And I voiced your belief at the last meeting, and I think it should be voiced again with the group here.

MAYOR KEECHL: Absolutely.

Let's remember something, and I understand where -- first of all, we had two selection committee votes yesterday. One was Commissioner Wexler, by herself and there was one that had four that wanted to serve, Keechl, Gunzburger, I think Wexler and somebody else. So now implying what you guys are thinking about, to the dais, when I'm sitting there running these meetings, and I'm thinking, well, we only had one. Now we have a two number. That worked out. If you had four, would we pick the four of us -- think about this. You can't stop, even if you wanted to, and I'm not saying whether it's right or wrong. You can't stop the influence of lobbyist and lawyers. You can't. And they have a role, in my view. I was stunned when you told me, we're like the only county or maybe there is one other county that only has one rotating Commissioner --

MR. WOLFE: Orange County had one.

MAYOR KEECHL: But I have to believe that when I get to the parking garage issue or I get to the court house, if I'm not on that selection committee, if none of us are on that selection committee, we're going to be ordering the books, and we're going to be reading the stuff and talking to the principles and the lawyers and the lobbyists and then we're going to be doing what we think is right. If you have two or three Commissioners on the selection committee, I think it kind of makes it harder to overrule the decision of the selection committee. Two or three of my colleagues sat through presentations, sat there and voted a certain way. So I absolutely believe that I should have the right to sit on every one, but I'm not going to. I'm not stupid. I know where this is going, unless, as Bill said, there is going to be a huge surprise among yourselves when you vote soon. I

think you're going down the road of zero, one or two, and so I think that you should at least have representation on there. I think it makes it cleaner.

MR. WOLFE: And then a follow-up.

If this Commission were to propose to the County Commission and the voters that all Commissioners are removed from that process, I mean we brought it up in the past and I just wanted your comments on it. To me that sort of brings that cone of silence issue moot, because --

MAYOR KEECHL: It does.

MR. WOLFE: -- and I think that ought to be reviewed because if you're moved from the process, you need to have that communication.

MAYOR KEECHL: I'm glad you brought that up. I have the ultimate responsibility. John Rodstrom said this. They vote us in. They vote us out. How we get to where our responsibility is, is a different issue, but I have to feel comfortable that the decision being made, especially by staff, if that is where this goes, is the right one. So I can't have a cone of silence, because I have got to make sure that I can double check what is going on, and I'm going to have to ask questions. You all know this process. Sometimes it's a complicated process. I have to play applicants against each other to find out where their strengths and weaknesses are in every proposal, so if for some reason the collective will of this group were to remove us from the selection committee and our only say is on the dais, you would need to lift the cone. By the way, the cone, and I don't know who took this position, and I have been thinking about it a lot lately. The cone is voluntary, as far as Commissioners are concerned. Maybe it should be mandatory. Maybe if you are leaving us on the selection committee, maybe they

shouldn't be talking to us at a certain point. You guys need to make that decision, but the important point is, if we're not on the selection committee, the cone of silence needs to go away. I absolutely believe that.

MAYOR KEECHL: I don't think most Commissioners take bribes. I don't think most Commissioners are money launderers. So I don't think the Eggelletion issue really applies here. This issue is about the appearance of impropriety -- I mean, you're going to have bad politicians forever. Bad politicians circum to temptation. The temptation will always be there, no matter what you do, because we have the final vote. So the argument that Mr. Eggelletion did this or that means nothing. You guys are trying to make the process more transparent, and instill confidence that is sadly needed in Broward County.

MS. RORAPAUGH: Mayor Keechl, thank you for spending some time with us. As you may recall, as a citizen at that time, not as an office holder, two charter review commissions ago, their charter review passed legislation that deemed that the County Commission needed to pass a code of ethics for both the County Commission and it's workers, and the employees of the county. That was 10 years ago. It still hasn't happened, which is why we're here. And you have been very supportive, as has many of the County Commissioners, but I'm somewhat disturbed, as I get phone calls from Commissioners and see them in public settings, how upset they are that suddenly people are trying to impose a code of ethics upon them, when they in fact have been told by two different elections to do this themselves. You are new to this County Commission, but some of your other Commissioners need to reflect on the fact that they voted against several codes of ethics over the past 10 years.

MAYOR KEECHL: I think the pink elephant in the room, Robin, real quickly, is when I got elected, all of a sudden we started getting piecemeal ordinances. One of them is a play pretty rule. I remember saying this is ethics, playing pretty? This is what my mom had taught me, God rest her sole. And it came very early -- it was hitting me before I even understood what a selection committee was, and I watched it unfold, where some of them were able to kill some real ethics reform. It's not about them anymore. I have said it before and I will say it again. I don't know what Commissioner Ritter said. She is a dear friend of mine, and I think everything she says she means, and she will say it. But five of us are going to vote for what you put out there, unless you're telling us we can't work or telling us we can't raise contributions. This is bigger than you. This is bigger than us, and I think applying it -- I don't even care about the past anymore. Applying it to the employees was a good sign. I was excited about that, just to see what we were going to here, because we haven't talked about this as a collective body, and you saw, the vast majority said, yes. And so I think the vast majority will say yes here.

MS. RORAPAUGH: And I'm hopeful and thank you for your leadership with controlling the bait, so to speak. As the County Commission, do you all not approve the County Administrator's appointees to selection committees?

MAYOR KEECHL: It is put on the agenda item. In three years we have never said no. The only issue that came up was an issue of how many should be on there. Commissioner Rodstrom and I felt -- I shouldn't speak for him, but based on my memory felt very strongly that it should be no more than three, so we have had conversations

when the County Administrator has put four on there and then we have limited it to three, but no, we approve it and no one has ever questioned who they are.

MS. RORAPAUGH: But you all do have final approval of the staff on the selection committee.

MAYOR KEECHL: Absolutely. We could change it, if that is what you are asking. Sure.

MS. RORAPAUGH: Well, not even if you could change it, but is not an expression of who should be on the selection committee? You guys control the entire selection committee, at this point, through that approval process, and your own appointments.

MAYOR KEECHL: You are technically right, but I don't think it's an issue. I have never seen anybody try to knock somebody off or say -- generally, if makes perfect sense. If it's an airport, you will have an airport person and maybe a finance person. It's pretty clear.

Does that answer the question?

MS. RORAPAUGH: I know someone had testified to that earlier and I wanted to reconfirm it.

MAYOR KEECHL: I don't even look to see who they are. I just look to see how many there are, and there are almost always three.

MS. RORAPAUGH: And over the next few weeks, if the County Commission could think of a way that we could include or through ordinance or through charter change could include cities, constitutional officers, quasi judicial board and appointments, I think that is an excellent idea. I think it some what -- I file no financial

disclosure in this position, nor do I have to disclose if I have any conflicts in my voting on an Ethics Commission. Fortunately I don't, but at least for some of the boards and commissions that are here in the county that you all make appointments to, it makes perfect sense to have those Commissioners live by -- basically stand by the same rules you have to, when it comes to disclosing conflicts, not voting on things --

MAYOR KEECHL: Common sense.

MS. RORAPAUGH: And that is something that you guys can do in two weeks.

MAYOR KEECHL: And here's how it's going to work and I'm going to let you go, because I know you have more work you need to do.

COMMISSIONER DE JESUS: If you could just give us your closing comments?

MR. SCHERER: Can we hold over for him?

COMMISSIONER DE JESUS: We can, but we have a lot of work to do.

MR. SCHERER: May I ask for us to consider -- do we need a motion to hold him over?

COMMISSIONER DE JESUS: If it's the majority's will, we will continue to go.

MR. SCHERER: For one, I'd like to go over and explore with him, because I think it's more important.

MR. FINK: Can I --

COMMISSIONER DE JESUS: Mr. Fink, you are in cue and we will extend the time with the Mayor, if that is good with you.

MAYOR KEECHL: Whatever you want.

COMMISSIONER DE JESUS: After his comment, you can ask away.

MAYOR KEECHL: Let's remember how this is going to work. You're going to present this to us by the second of March. Hopefully a little earlier, because I would like it have some input. I'd like my colleagues to feel they have had input, although you have been wonderful in inviting us to come. I think it's better for the public to be able to comment. Maybe even staff, by the way. I knew I forgot something. I believe staff has some concerns about the mechanics of what is going on, so that would give them an opportunity. Then, as the Mayor, I have 180 days to get it approved or not approved and it goes to the voters in November. I think when the final work product is done, and we're in that 180 day period, and I have to decide within that period when I'm going to agenda this, I think that is where we're going, I believe as the Mayor of Broward County, we're going to -- I'm going to start looking at whether or not, based upon what you have proposed, should there be additional proposals. It seems pretty simple to me, that if you are going to apply something to the County Commission, you better apply it to our employees and hell, pardon my language, but if it's good for us, it should be good for every elected official in Broward, and this may be the opportunity, but clearly I'm not going to mislead you. I have to see what comes out of this group. There are only a couple of fatal things in my opinion, and I have expressed them before and I won't say it again, but short of that, I have already spoken with legal about the possibility of this. And then you have to have six, and it seems to me you would be very hard pressed to vote for a reasonable proposal that you are putting on the ballot, but not another reasonable proposal to apply it to other constitutional and elected officials if we have the an ability to do that. But it's 180 day period that is going to be so important.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Thank you, Mr. Chairman.

Mr. Mayor, thank you so much for being here today, and number two, thank you for speaking on my independence, because I think as Commissioner Ritter said, she and I have fought tooth and nail about the procurement process. I have been involved with the procurement project from a different aspect, and I think we're all in agreement or I hope we are that the process has to be changed. I agree with you that lobbying does serve an important function, and I think if you look at the draft, we're not in manner, shape or form trying to do away with lobbyists or lobbying, but it still remains a fact that the Broward County Commission is the only entity in Broward County that has an elected official or has elected officials sitting and participating in the procurement process itself, and Commissioner Ritter in her prior statements this morning stated that she sees no conflict there, but you are correct that the perception by the public is, that is where it starts because it becomes a function of following the money. I think if you look at the draft also you will see that we have no intention of stopping or hindering your ability to raise funds for charitable contributions and things like that because we think that is part and parcel of the job.

A couple of things I do want to bring up though is, it is a fact, and this comes from people who are prior employees of the staff and on the procurement process in Broward County, that when Commissioners sit on procurement committees, they do hinder the staff's ability and they do influence their thought process because they will not ask questions. They will not take the initiative until they hear what either the Commissioners' points of view are or the questions that they have to ask. So whether it be one, whether it be two, whether it be three, and as you said it would be difficult to do

if you have one of those processes, to find out how you're going to do it, and is not in the best interest of staff. And if in fact staff, and this has been discussed prior, if the Commissioners do not have the confidence that the staff is capable of rendering an independent and intelligent decision as to who is the best supplier of either the product or the services, then that means that you do not have confidence in the staff that is there, and then it becomes the function of the County Administrator to fix that process and fix that problem. If that is the issue, then I think we have to look at it from that aspect, but the fact of the matter is, there is no other entity in Broward County that has elected officials sitting on selection committees.

COMMISSIONER DE JESUS: Mr. Fink --

MR. FINK: We have also heard testimony, as has been said in the past from multiple people who are experts in this, that elected officials do not belong in the procurement process. Commissioner Wexler admitted that if in fact they could not participate in the selection process, it would mean you would have to do more reading, but that I think is part and parcel of the job, so I think that is where we need to look for that type of thing, but I couldn't agree with you more.

The other question I had, and this was a question --

COMMISSIONER DE JESUS: Mr. Fink --

MR. FINK: -- that came up yesterday in a resolution --

COMMISSIONER DE JESUS: Mr. Fink --

MR. FINK: The resolution correctly --

COMMISSIONER DE JESUS: Mr. Fink, can you hear me?

MR. FINK: Yes.

COMMISSIONER DE JESUS: Can you hold one second and let the Mayor respond to your first question and then you can continue with your next?

MAYOR KEECHL: Thank you. I will be very brief.

I don't think, and I don't know what Commissioner Ritter said because I didn't know she was going to speak, but a lot of times Commissioners don't even speak at selection committee meetings. I don't speak very much, because I know everything I need and I read the stuff, I meet with the principles, the lawyers, the lobbyists, and then I watch the presentations. I'm not going to opine on some of the things said by others and whether I agree with them or whether they are hypocritical or anything like that, but you have a couple of Commissioners that like to talk a lot in selection committees. What is interesting is -- I would be interested in knowing, when you looked at the past votes, Commissioners don't always agree on who we're picking, so it's kind of hard to figure out how we're going to convince staff, by our presence there to do something. I mean sometimes -- you know, we have three people short-listed. You have staff going in different directions. One picks one. One picks two. One picks three. Keechl picks two, Ritter picks one, Wexler picks three. We're not that consistent. It isn't like we're all voting the same way, but I can understand why you would think that. My experience hasn't been -- I do think there are times when some Commissioners telegraph where they want it to go, but you will have the next Commissioner telegraphing the opposite and you will have staff doing whatever they want.

I will tell you something else and then I will take you're next question.

I was on a selection committee last year dealing with banking, and I was convinced we needed competition, and somebody had the business forever, and I knew

how staff was going to vote, because it was easier not to change. It makes their job much harder, and it was short-listed to three major banks, and when the two new companies pointed out all of the problems with the current bank and the fact they didn't do x, y and z and we could do things better, there were only, I think two Commissioners on the committee. I voted number one, for one of the new ones. The other Commissioner voted for the other new one, and the three staff members voted for the status quo, and I walked out of there thinking justice wasn't done. So it's a very complicated thing we're talking about. That is why I'm saying, Mr. Fink, I think you feel very strongly that there should be none of us on there. I feel strongly that a compromise with three or two would be the right way to go for the reasons I'm expressing, but I understand why you feel the way you feel.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Mr. Mayor, I really appreciate that and I think we will agree to be friends whether we disagree or not.

MAYOR KEECHL: Absolutely.

MR. FINK: And just to reiterate one point before I get to my question. It's not that I think that staff is intimidated, but I did speak directly with somebody who was a member of the Broward County procurement division and department for 10 years before he left to work for some other municipal entity, and he categorically stated to me that when Commissioners sit in the room, staff, regardless of who it is or what their level is, will wait to see which direction the wind is blowing before they will begin to speak or voice an opinion or even ask a question, and that is coming from somebody who spent 10 years in the procurement department or division.

MAYOR KEECHL: Of course they are going to wait to hear from us because we are their bosses, but again if you go back and look at the votes, I think you will see -- you don't see Commissioners voting exactly the same and staff doesn't either, but fair enough. We will disagree on that one and we will be friends.

MR. FINK: My question pertained to the draft that was passed yesterday. In reading it I see a section that said at the sole discretion of the Commission, as to which portions would or would not be adopted for staff, and I was wondering if you could comment on that?

MAYOR KEECHL: Sure. There was minority view that what exactly are you all passing, and how can we apply it. I thought some of the arguments were disingenuous. I mean I know what you are asking of us. You are saying the reasonable rules that make sense, apply them to the staff. Makes sense. Nevertheless, there is not a document in front of us, so I was -- I believe the vast majority of the Commission, being led by your Mayor to try to get to a unanimous vote, was saying we recognize that some of what you pass -- I'm trying to think as I'm talking, may apply to staff members. For example, staff members don't raise political contributions; do they? Well, maybe they do. You know what I'm saying. There maybe certain areas where maybe it just doesn't make sense. And so my Commission, by a strong majority was telegraphing to you that we acknowledge and accept the premise. By the way, this was before the vote of the Legislature, you know, on your local bill. We accept the premise that it should apply to us as well. That is just semantics. And I anticipate, again, that five or more of us, and it has to be more than five, will apply it to employees, assuming that what comes out of this group is reasonable, which I'm sure it will be.

COMMISSIONER DE JESUS: Mayor, I'd like to make a statement and then ask you a question on the timeline.

One, I fully support your recommendation that this should probably apply to all elected officials. If nothing else -- well, it's the right thing to do.

Two, it's going to, because confusion amongst vendors, contractors, lobbyists, attorneys who do business throughout the county having to follow different rules and different municipalities, Legislative Officers, Constitutional Officers in the same county. If fact, no more than the day after I was appointed Chair of this committee, I was advised be careful what you pass, because as an elected official, you're going to have to live by it most likely. That wasn't an issue for me to be careful with because I believe it's true, and I have gone on record here and at my Commission meeting in saying, I intend to ask my colleagues to pass whatever it is we present because I think that is the right thing, long before you have had an opportunity to imply it on us.

With that being said, my understanding, Mr. Teitler is, once we present this to the County Commission, we sunset and there is no more collaborative effort. Am I wrong with that understanding?

MR. TEITLER: I think we discussed this earlier. We didn't actually sunset until the code is approved, but we do have to present it on a date certain for their up or down vote. The collaborative effort that we discussed is going on now.

COMMISSIONER DE JESUS: So then we could actually work on county proposals, if you will, through that 180 day period?

MR. TEITLER: Well, that is not clear in the charter provision that we could do that.

MAYOR KEECHL: Can I say something? You both are absolutely right, and I'm a lawyer. Don't hold it against me. I have looked at this and I don't know -- I testified in favor of it by the way and I voted for it, you know, but it has you by the first meeting in March, presenting something to us, and the language is kind of weird. It almost looks like it's an up or down, but it talks about a collaborative process, so I had asked the C County Attorney just in passing, if you present it to us on March 2, could we then talk to you, because you don't sunset until we approve on or the voters approve it. Could we then talk to you about it and if there is something that just five or more of us can't accept, can you amend it, and there hasn't been an answer yet because as Robert said, it's some what vague.

MR. SCHERER: I think that is imperative, as Commissioner De Jesus is trying to set the schedule, how many more meetings we need and when we may or may not present it to you. I was looking initially at trying to get you something by the 22 of February, but if there is no more dialogue after it's presented, I didn't know that is going to provide enough time, not that I know that the majority of this Board will want to go back and forth after that way.

MAYOR KEECHL: You are absolutely right, and that is why I'm here. My original thought process was, hopefully me as the Mayor will be talking with you throughout the 180 day period. I came to the conclusion in the last few weeks that may not be right. That is why I said -- and you may not want that. You may say, putting it up, you vote for it or you don't. I don't want to be lobbied by you guys after we have voted, and that is your jurisdiction, but at a minimum, I was saying earlier, I would like you to get this done a few weeks early so that I don't have to listen to anybody on the

dais say, well, this is crammed down my throat, and the other side say, you could have come any time you wanted to talk to them, and the other side say I didn't know what they were doing. So I was hoping, at a minimum, for a couple of weeks and some public in put.

COMMISSIONER DE JESUS: Mr. Teitler, we're going to need a final opinion on that. If you don't have one now, if you could bring one to us.

MR. TEITLER: The provision in the charter exhibit states under sunset, that the Broward County Ethics Commission shall cease to exist upon adoption of the proposed ethics code by the Broward County Commission or upon the consideration of the proposed ethics code by the electors of Broward County, regardless of the outcome. So it's pretty clear as to when the sunset occurs.

MAYOR KEECHL: Well the question is, what is the purpose of you being around? If you present it to us a March 2, and we can't talk or you can't change it, why are you still in existence?

COMMISSIONER DE JESUS: Mr. Scherer and then Commissioner Shechter and then Ms. Rorapaugh.

MR. SCHERER: I have a few things. I think this is very beneficial and I thank you for being here.

I'm thinking that the County Commission could pass something to empower us to stay on and help collaboratively work, if they wanted to, so we probably could get around that issue, but that is just my opinion, as an opinionated lawyer. If there are no Commissioners on the procurement process, would you would opposed -- how would you look at staff engaging and doing their ranking, in what has been termed the sand

bagging process, where there is two strong proponents and they choose their own number one and they rank number two lower to make their number one stronger so that they gain the system. How would you feel about staff doing that, rather than just voting their conscience and ranking them one, two and three, or four, however many.

MAYOR KEECHL: Well, if you have no --

MR. SCHERER: You just have staff there.

MAYOR KEECHL: Right. We just have staff there. Then I feel, as the County Commissioner for District 4, that I have to look at their votes and I have to look at the materials. Ironically, if there are three staff members and they go 1, 2, 3 -- 3, 2, 1 -- 2, 3, 1, then they weren't even in agreement, and why should the people of Broward County be stuck with however it just happened to work out, when I was elected. So without a County Commissioner or two or three there, I think it's going to require -- there is not going to be any presumption of correctness, in my mind.

MR. SCHERER: But my point is, would you want the staff to engage in the sand bagging process or not?

MAYOR KEECHL: How is it going to work? I mean right now if there is no Commissioners, you short list three, and they go 1, 2, 3 -- 3, 2, 1 --

MR. SCHERER: But the sand bagging process, you know what that is; right? I mean what has been termed -- Lois Wexler told us, I mean that is what she called it, when the selection committee doesn't vote it's conscience if you will or it's opinion as you will as to 1, 2, and 3, but they rank if there is two real strong ones, they will rank their pick number one, and as to the second one, they will rank them last in order to

make the selection of their choice. It's a gaming of the system. How do you feel about that?

MAYOR KEECHL: I got you. It's very hard to sand bag, when it's a 1, 2, 3, system. Where you see sand bagging, and I haven't seen much of it, and I saw it with the Commissioner no longer with us, so I can say that, is when you have RFP's, not RLI's. RLI's are 1, 2, 3. RFP's are give the points. There are 100 points. I have seen a Commissioner give, the category is 50 points and they give zero points, where I am being fair and I give 30, 35 and 40.

MR. SCHERER: So is it unfair to do it the other way?

MAYOR KEECHL: I don't think it's a real problem.

MR. SCHERER: But is it unfair --

MAYOR KEECHL: No.

MR. SCHERER: -- to sand bag?

MAYOR KEECHL: Sand bagging is in the eye of the beholder. Let me give you an example. Commissioner Rodstrom and I absolutely disagreed on a -- and Commissioner Wexler. Commissioner Gunzburger and I felt this one company should win. Wexler and Rodstrom felt the other company should win, and she may or he may think that is sand bagging. There are different factors that come into place.

MR. SCHERER: I'm not talking about that. I'm talking about ranking that is a disingenuous vote made in bad faith.

MAYOR KEECHL: Under that definition, I don't believe in sand bagging. There are too many factors that come into effect.

MR. SCHERER: So you wouldn't want staff to sand bag?

MAYOR KEECHL: Of course not.

MR. SCHERER: And you would want them to rank them legitimately in good faith and then you could make the decision?

MAYOR KEECHL: Right.

MR. SCHERER: How do you feel about Commissioners on the committee sand bagging their votes as well and not voting in good faith as to 1, 2 and 3, but gaming the system to make their number 1 stronger?

MAYOR KEECHL: I have seen very little of that in three years.

MR. SCHERER: The question is --

MAYOR KEECHL: It's hard to accept the premise of what you are suggesting because I don't think I believe in sand bagging, as you are arguing.

MR. SCHERER: The Commissioner that spoke before you that is on the record said that she thinks that is part of the process and engages in that; is that not right?

MS. RORAPAUGH: That is correct.

MAYOR KEECHL: Did she give you examples?

MR. SCHERER: Yes.

MAYOR KEECHL: I haven't seen it. I'm a lawyer. I can look at everything three different ways, and so sometimes price is the overwhelming reason I should vote some way. Sometimes they don't have domestic partnership, and that really pisses me off, so they are going to suffer because my district said we want domestic partnership benefits. Sometimes they have litigation history, more money -- it's cheaper, but they have litigation history. So to me it's in the eye of the beholder, except for these RFP's where you are sitting there and you're going, you know, you and I could vote on something.

Stacy and I disagree all the time, but I understand where she is coming from. She will rank somebody 1 and I will rank them 3, and I know why, because there were three good companies. That is why they made it to the short list. So other than seeing someone give somebody zero points, which just skewed everything, I have seen very little sand bagging, as you are defining it.

MR. SCHERER: But the point is, it's being done and it shouldn't be done. It's not honest voting.

MAYOR KEECHL: Absolutely not. We're elected to do what is in the best interest of the people of Broward County, and under that example, someone is not doing it. I absolutely agree with it.

MR. SCHERER: I have two more things, if I can.

COMMISSIONER DE JESUS: We're almost time certain for --

MR. SCHERER: I understand, but I'd like to do this. When you have a case in Court and the -- I'm glad you are back.

MAYOR RITTER: Because you mischaracterized what I said. I have no choice.

MR. SCHERER: Okay.

COMMISSIONER DE JESUS: Mr. Scherer, if you could conclude your comments. We're time certain for public comment at 11. We have to go to the public on that, if there are members that wish to speak. If not, we can continue our discussion. Any members of the public present wishing to speak? We have time certain on the agenda for 11:00 AM. With none being recognized, we will continue our debate.

MR. SCHERER: When you have a case in Court and you think the Judge has had some contact with you or your clients that would interfere with the independence of the Judge on your case, what do you do?

MAYOR KEECHL: You ask the Judge to recuse them self.

MR. SCHERER: Okay. Is there a recusal policy at the county, if a relative to the Commissioners --

MAYOR KEECHL: That is a false premise. Everyone has a right to talk to the elected officials. You have a project, you have a right to talk to me. You have a right to talk to Commissioner Ritter. So Judges are not supposed to have ex parte communications. We, by definition are, are supposed to have communications.

MR. SCHERER: But if there is -- so you think it's justified not to have some kind of process where a Commissioner can ask to be recused on an issue?

MAYOR KEECHL: No. I think a Commissioner -- if a Commissioner has a financial interest or something like that, yes, they should recuse themselves, absolutely.

MR. SCHERER: They should, but if they don't, do you think there should be a process --

MAYOR KEECHL: Yes, I do.

MR. SCHERER: -- where the applicant can say I believe --

MAYOR KEECHL: Absolutely.

MR. SCHERER: -- you are. Do you know if there is a policy for that, anywhere?

MAYOR KEECHL: It's probably the state attorney, because the only time a Commissioner should be recused is when he or she has a financial interest in a vote,

and then they should not be serving and if they are, someone is going to get them, I hope.

MR. SCHERER: But the question is, I don't believe there is a recusal policy.

MAYOR KEECHL: You are a very good lawyer. There isn't one, and I can't think of any situation where that has occurred, where one of my colleagues hasn't recused themselves like I did from a vote yesterday.

MR. SCHERER: If there is a perception among people that are doing business that certain Commissioners are biased in a certain way against them, is there -- should there be an ability of that entity or person to ask that the Commissioner step down from that issue, do you think, like a recusal policy?

MAYOR KEECHL: No, I don't.

MR. SCHERER: If the Commissioner is not doing it?

MAYOR KEECHL: No. This is a political world we're involved in. When you start allowing applicants to move, to ask us to recuse ourselves -- for example, if a company comes before me and they don't have domestic partnership benefits, are they going to call me bias and ask me to recuse myself? I'm elected to do what I think is right for the people of District 4 in Broward County, so, no.

COMMISSIONER DE JESUS: Mr. Scherer, would you conclude, please? We have other members wishing to speak and I just want to give them an opportunity.

MR. SCHERER: I'm done.

COMMISSIONER DE JESUS: Thank you, sir. Mr. Collado.

MR. COLLADO: The Mayor was pretty clear, but I just want to -- what are some of the criteria that the members of a panel, that you look for?

MAYOR KEECHL: The RLI will tell us what the intent is, so it will say we're looking for the best price; we're looking for international competition or looking to diversify fuel, for example, so generally we're looking for qualified companies that are going to provide the best services at the cheapest price, but the RLI will tell us when there are other factors. So there are some criteria. When we're building a court house, I'm looking to see, is that construction company legitimate? Who are they partnering with? We have a CDBE, a disadvantaged business requirement. How they met it? So it's not just saying, I'm picking you today and you tomorrow. We're looking for companies that meet the criteria of the RLI and obviously good business practices.

MR. COLLADO: Do you feel that the members of the selection panels have as much independence as we have had here?

MAYOR KEECHL: The County Commissioners absolutely do, and the staff members should. I have never told a staff member how to vote. I can promise you Commissioner Ritter has never told a staff member how to vote. I can promise you Commissioner Jacobs has never done that. That is just not how we operate. I will acknowledge again, finally, there are some afraid of some of us and they are respectful because we're their bosses, and Ms. Henry has probably instilled in them that she wants everything to go smooth, but I think Monica voted against me one time, so if I vote one way and Stacy votes one way, Monica is scared. Who is she going to follow? But I understand the perception. That is what I started -- there is a perception out there. You're absolutely right. So if the will of this group is to change the system, don't get rid of all of us. Limit the number and we will see what happens.

MS. RORAPAUGH: I know that the selection committee process is the most controversial right now, on the table. I have had more lobbyist call me and more Commissioners contact me about this than any other issue we have been talking about, including charitable donations, including more transparency, including all of this. And I get that. I understand that you guys want to play a role, but we have a county manager system of government here. Many of us have tried to change it over the years or many of us have tried to keep the status quo over the years. The county manager is the executive branch of this county. The county employees work for the county manager, and the county taxpayers, not the County Commission.

MAYOR KEECHL: The auditor, administrator and the attorney work for me. Everyone else works for her, and if I don't like what she is doing, I can get rid of her if I could get five votes. I agree. Strong administrator system, Robin, absolutely.

MS. RORAPAUGH: That is correct. And in this administrator system, the executive branch should be in charge of procurement, with you guys setting the standards.

MAYOR KEECHL: You know what? Have you asked Ms. Henry for her opinion on this, out of curiosity?

MS. RORAPAUGH: She has not come before us.

MAYOR KEECHL: That is where we're going. That is why I'm saying, you need some staff input. I have not talked to her about her view on this, but I'm not so sure she would agree with you. I'm not sure.

MS. RORAPAUGH: I not sure she would feel comfortable telling us how she feels about this.

MAYOR KEECHL: At this point I'm not trying to convince of you anything. I came in here --

MS. RORAPAUGH: No, absolutely.

MAYOR KEECHL: I know, Robin. I came if here to say to you, remember when I came here the first time I said how dare you think about removing me? I changed. I said, limit the number because of the perception out there of crime, of crooked politicians, although most of us are good. Fine.

MS. RORAPAUGH: And most of you are good. All of you are good.

MAYOR KEECHL: And I said it looks like we're going to apply it to the employees. You made another point here. I'm just trying as the Mayor of Broward County and as a County Commissioner, to make this a collaborative process and to give you the views from on top, looking at seeing what is going on. I understand we're going to disagree on some issues. You probably felt very strongly and Mr. Fink probably feels very strongly, no County Commissioners. I'm still going to have a say. The world doesn't change for me. I'm still going to have a say, because I'm going to be on that dais, but you have to do what you have to do.

MS. RORAPAUGH: And Mr. Chairman, we may want to think about, in essence, workshoping this because I sat through all of, most of the ethics subcommittee ethics of the Charter Review Commission, and just as there is legislative history behind a piece of legislation, there is a history behind how we came to be here, and it was to be collaborative, starting last March, not mid January.

MAYOR KEECHL: And it has been. You have invited us.

MS. RORAPAUGH: But what I fear is the County Attorney will find, as I look back at the testimony and at the intent of this Commission, is that this was not to be a ping-pong back and forth. We send a code. You vote it up or down. So I would ask, or request very strongly that, possibly through a workshop system or whatever, this collaboration that we're talking about actually happens. We have had a standing invitation for anyone to come here and speak to us and we're now at the 20th goal line, not the 5th goal line, but the 20th yard line and I can tell there is going to be a lot more talk and we need to figure out away to absorb it, be collaborative with it so we can give you a product -- not a product, but an ethics code that the Commission is proud of, what to expand and vote for.

MAYOR KEECHL: Let me just close, because I know you have other things to do.

I'm not sure that there is time to have a workshop between now and your deadline. I'm not sure if it's in the best interest of the people of Broward County to have one, although I understand everything you said. Remember what I said when I came in here? And I don't believe in the end, you're going to be allowed to play ping-pong. I think what we're going to here eventually, March 2, that is it. Up or down. What I said when I came in here was, we have been listening to you overall. We're going to cover employees, assuming this is reasonable. I'm thinking about other things and I will bet you my colleagues are as well. Please get it done a little early so you can get some more comments, so that when it comes up on March 2, when it's been filed, and I finally put it on the agenda, that my colleagues feel that they saw something and they could talk to you one last time, and that to me is collaborative, and again in closing I think you

have been -- Commissioner Ritter has been here. I have been here. Wexler's been here. You have asked all of us to be here. I guess that is what collaborative meant when I voted for this.

COMMISSIONER DE JESUS: Mayor, I thank you, and just to clarify for the record, we have asked Mr. Teitler to get us a final formal opinion on that issue. He is going to ask Mr. Newton to provide us with something in writing. I would ask that come via e-mail before our next meeting so that we know going forward.

We're going to take the next few minutes to try to set a schedule on what an appropriate time would be to get it to them. I agree wholeheartedly in getting them something early, before that deadline. I'm not in favor at this point in presenting something and dragging it on the next 180 days back and forth. I think our job has been clear from the beginning. We have proceeded with that understanding, that we have a deadline to meet of March, and as long as this committee, this Commission can vote unanimously to pass a code of ethics, I would just like to spend the next few minutes talking about that timeline, what we have set, where we think we will be able to get with what is left and getting it to them in time. I know that many of you, we have said it at many meetings, if you have further questions for the Mayor, please contact his office and see him or any Commissioners that has been before us, and they have been -- many of you have done that. There's been no shortage of them contacting me and spending time with me and asking me questions and where we're going and what my opinion is. I believe it's been very collaborative, and I want to make sure for the record that there is not a perception that has not been, and I don't think that is what has been implied, and will continue to do so until we're done.

Mr. Wolfe.

MR. WOLFE: Just a brief comment. I agree with Commissioner De Jesus. I think it's been a collaborative process. I'm very happy the Mayor showed up today and made his comments. And I think everybody in this Commission knows where I have been on most of these issues so far, because I'm pretty out spoken and I'm pretty much settled my mind where I want to go with this document, and I look forward for us -- I'd like to get the Inspector General draft into the document or working draft and then start going back and start making decisions. I know where I want to go. I will support the majority of this Commission on all those decisions at the end of the draft.

COMMISSIONER DE JESUS: I think we have a consensus on asking staff to put the Inspector General into our working draft and then we will begin to pull out what we don't believe is applicable. Again I would ask if the interest of time, between now and the next meeting scheduled on the 20th, next Wednesday, that we come with some specifics that we feel we would like to recommend stay in or come out. If we look at the schedule, folks, while I'm not in a panic, it's going to be tight. If you look at where we are at, we have the 20th scheduled right now and we have the 10th scheduled. If we don't do a whole lot of work at the next two meetings, we're going to have to add more again, I believe. We haven't gotten to the point we've gone back and truly vetted and debated what we're going to vote and what we're not going to vote. That is my opinion. I could be off, but as I go through that document and continue to go back and read, we haven't go through with a fine tooth comb and said we're going to agree with this language or we're not going to agree with this language, and like Mr. Scherer points out regularly, we don't know where it's going to come at the end when it's time to vote, and I

think we need to provide us some adequate and appropriate time to fully vet those issues.

MR. WOLFE: I think with the Inspector General draft into the document right now, knowing we're going to tweak things and I had some suggestions on the composition of the selection committee and stuff. I think it needs to represent the business community and some other people, but I think we should be coming to our next meeting and just go right back to the front page and start making some policy directives, like maybe the first one is going to be, no Commissioners on procurement or one or two. Once that decision is triggered, a lot of issues go away, and I think that is where we ought to really been doing our reading this week and getting back and making some decisions next week.

COMMISSIONER DE JESUS: Mr. Collado and then Mr. Scherer.

MR. COLLADO: I just want to thank the staff for being so efficient, getting stuff to us, for us to read. My comment actually is a question whether it would be unreasonable in terms of time, to get all of the documentation for us to read prior to the weekend. It's a long weekend for us to then have everything read by next meeting.

COMMISSIONER DE JESUS: We're only asking for one thing; right? Did you get a copy of it?

MR. COLLADO: Yes. I just got a copy of it.

MR. TEITLER: I can incorporate within the Inspector General provision, the rough framework of what was proposed by the legislature, which was pretty much what exists in Palm Beach County, just a rough framework. A lot of that is going to be

changed and modified, but as long as this Commission's intent is within the code of ethics, that is the important part.

COMMISSIONER DE JESUS: Mr. Scherer.

MR. SCHERER: Would you allow Commissioner Ritter to come and make a statement on the record, please, because there was a, perhaps a misunderstanding. She came down to do that, while the record is open.

Would you allow that?

COMMISSIONER DE JESUS: Commissioner Ritter, would you like to clarify or would you like to speak with Mr. Scherer after?

MAYOR RITTER: I would actually like to put it on the record.

Thank you.

COMMISSIONER DE JESUS: Welcome back.

MAYOR RITTER: Thank you.

When I was watching the rest of the meeting in my office and you were speaking to Mayor Keechl about quote sand bagging unquote, Mr. Scherer suggested that I said, on the record, that I participate in sand bagging.

First of all, I don't believe it was sand bagging. And secondly, I said that it is within my purview as a County Commissioner to vote for the company that I feel can best do the job, and if there is a competitor who is second, who I do not feel is as qualified, but is a serious competition, then I think it's my responsibility to rank that company lower. I don't think that is sand bagging.

MR. SCHERER: I understand that is what you said.

MAYOR RITTER: Yes, but I don't think it's sand bagging, and you said that I said that I participate in sand bagging regularly. I take exception to those comments and I just wanted to clear it up.

MR. SCHERER: So noted.

MAYOR RITTER: Thank you.

MR. SCHERER: The issue of doing the vote the way you said that you believe is appropriate is an issue that I'm going to raise and try to get a definition in the ethics code, whether that is permissible or not, and I understand that, because you and I have a disagreement with that, and I understand full well that your position and I think everybody else does too, and I'm going to ask that we put something in there to address whether that is permissible or not, particularly if there are no Commissioners on the selection committee, do we want staff to engage in that same process, and I think we need to vet that, and I appreciate that.

MAYOR RITTER: You're under the assumption that they don't.

MR. SCHERER: Pardon me.

MAYOR RITTER: You're under the assumption that staff does it.

MR. SCHERER: No, I don't. I'm not under the assumption staff doesn't do that. I'm of the belief that if they do it, they shouldn't, or if they do, then it's permissible and it ought to be in the rules so we know what we're dealing with.

MAYOR RITTER: Practically speaking, Mr. Scherer, I could come up -- anyone of the nine of us or staff could come up with a cause why we do the things that we do. That is not to say that is the real reason. Lots of times, people, in general, whether in the private sector or the public sector, say things that they don't really mean because

they just do that. It happens all across the spectrum, public and private, so you want a reason why I do something, I can give you a legitimate reason.

MR. SCHERER: But if it's a violation of the ethics code to vote a way to gain the system and we put that in the code, then we could presume that there wouldn't be very many zeros for qualified candidates to gain the system. That is the point we're making.

MAYOR RITTER: And I agree with that, and I intend to vote for whatever you guys put up, whether I agree with you or not, because I think that that is what the public wants. I think it will make county government much more difficult. I think this will slow the system down considerably, which will increase the cost of doing business, but if that is what the public wants, that is what we will provide.

COMMISSIONER DE JESUS: Commissioner, thanks for clarifying your position. Folks, if we could take --

MR. SCHERER: I do want our draft to put a provision, a ranking type -- I want a sand bag provision in this code that talks about, in procurement, that the votes of staff or whoever is on that would be exercised in good faith and they do not gain the system. Now I'm using those words. You will have to figure out how to put that in there, as a part of good faith efforts and how this procurement process works.

COMMISSIONER SHECHTER: Can you think of language that we could put into the --

MR. SCHERER: Sure.

COMMISSIONER SHECHTER: Isn't that subjective --

MR. SCHERER: No, it's not subjective when they put zeros on the next most qualified, if there are three or four or five firms, or however many they do, and they put zeros on. There are two really strong ones and they give the second one a zero.

COMMISSIONER SHECHTER: Are you sure that would be sand bagging?

MR. SCHERER: Well, I don't know. It could be, and if they were called -- if they were called to task on voting in a manner that is not -- we need some language in it.

COMMISSIONER SHECHTER: If they are called upon to defend their position.

MR. SCHERER: Of course, by the Inspector General.

COMMISSIONER SHECHTER: Of course by the Inspector General.

MR. SCHERER: And why did you do you that and who talked to you and how did you gain the system, because you know who -- come on folks, you know who does the gaining, don't you? It's the lobbyists. Here's the point. Here's the spread. Here's how it will work, and if you don't believe it, read the stuff on the School Board on how they have been gaining that system over there for the last 20 years.

COMMISSIONER SHECHTER: Can you think of the language to suggest to Rob that might codify that thought.

MR. SCHERER: I'd like Rob to suggest it to us and then we could modify it.

MR. TEITLER: The words good faith is a good and inclusive start.

MR. SCHERER: Of course it is.

COMMISSIONER DE JESUS: Mr. Teitler, could you propose some language?

MR. SCHERER: And I'd also like you to propose some language for there to be a process to get a decision maker to be recused on a particular matter. I had that dialogue with the Mayor. There is no provision in our code to have somebody who is

appearing before the county on a major issue, to ask a Commissioner to recuse him or herself, based on facts that maybe known to the proponent where the Commissioner is not doing it voluntarily, and there is no mechanism to do that, and I think we need to have that mechanism in this code as well.

COMMISSIONER DE JESUS: Mr. Scherer, would you give me an example of when that would be exercised?

MR. SCHERER: Any time a measure is coming before the Commission and the Commissioner does not exercise a conflict, that has a voting conflict or decision conflict.

MR. TEITLER: They are already bound by chapter 112 that makes them --

MR. SCHERER: Then does the proponent need to file an ethics Commission complaint in order to make a simple request? Wouldn't it be better to make a simple request first?

COMMISSIONER DE JESUS: I'm trying to follow where you are going, because that is exactly what I was thinking. That Commissioner would have to recuse themselves or risk violating state law.

MR. SCHERER: I understand that.

COMMISSIONER DE JESUS: So --

MR. SCHERER: There ought to be a mechanism short of that for a partition to be made and a process where that Commissioner either says yes or no or establishes on the record why they don't have a voting conflict, short of filing an ethics complaint, and the ethics complaint apparatus isn't getting the job done. In my opinion there ought to be some mechanism to, for a Commissioner to be challenged short of an Ethics Commission.

I think if you had an Inspector General, you could call a hot line.

MR. WOLFE: Obviously if you have doing a presentation in front of the Commission and you wish to challenge a Commissioner, you should have the right to do so.

MR. SCHERER: Short of filing an ethics complaint.

MR. WOLFE: But then you turn around if it's not satisfied, you file an ethics complaint with the Inspector General.

MR. FINK: Mr. Chair, I agree with that.

MR. WOLFE: Just like you do in Court, and I'm not a lawyer.

MR. SCHERER: Exactly. It just makes sense.

MR. COLLADO: I just want to bring up a point Commissioner Shechter made in terms of the clear language and definition of what is sand bagging, and I don't know that is what you meant, but that is certainly what I want, because other than favoring one proposal in detriment of another, I just would like to see it in something that the public would understand the process and understand what we're taking and proposing to the Commission.

COMMISSIONER DE JESUS: Mr. Teitler has been asked to provide us with that language, so we will see it in our draft.

MS. RORAPAUGH: A couple of things. And Monica you might be able to answer this.

There is currently a -- is there currently a mechanism that if someone who has been in part of the RLI process, the RFP process, can challenge the findings of the selection committee?

MS. CEPERO: They certainly can. In the procurement code there is a mechanism for people filing a grievance or challenging decisions. I don't know that off the top of my head. It has been provided to you guys. I can certainly get it to you again.

MS. RORAPAUGH: No, no. I recall having it. So currently there is a mechanism if some one believes they are being sand bagged, they can take it --

MR. SCHERER: It's a toothless tiger, I mean a toothless provision. You cannot base a protest on a sand bag vote because there is no real requirement not to sand bag in the code.

MS. RORAPAUGH: And then the second thing, for Commissioner De Jesus, possibly -- I think Mayor Keechl made a good point, that we should have the county manager here or a previous county manager here to tell us what they think would be helpful to the staff, as we preclude our business, and hopefully Ms. Henry can make it and I think the County Commission has gone through quite a few county managers over the last 10 years, so there is a wide variety of former county managers --

MR. WOLFE: I probably would rather listen to Roger.

MR. SCHERER: Well, I think that is a really good idea. Not just Roger, but Jack Osterholt. It would be interesting to hear what some of the other managers have to say.

MR. WOLFE: The ones that aren't employed right now.

MR. SCHERER: The ones that are not employed, yeah.

COMMISSIONER DE JESUS: In the interest of time, let's talk about our schedules, since we're talking about adding people to come testify before us, because we're out of time.

So under other business, here is what I had like to do. I would like to accept a motion to approve the minutes from the 01/06 meeting.

COMMISSIONER SHECHTER: Moved.

MS. RORAPAUGH: Second.

COMMISSIONER DE JESUS: Moved by Commissioner Shechter, second by Ms. Rorapaugh. All in favor signify by saying aye. Any opposed, same sign. Minutes approved.

Dates. We're currently scheduled for 1/20, next Wednesday. I don't think there is going to be one added between now and then, and then again on 2/10. If you all would look at your calendars -- let me ask for a consensus.

Does anybody believe that those two meetings, in light of what we have just discussed, is going to be enough time to include our draft.

MR. WOLFE: I'd like to hold this discussion over to the next meeting, because I have to look at the calendar.

COMMISSIONER DE JESUS: Okay. If you all would come prepared, and in fact I would request that you send some available dates, other then those two, before February -- any available dates before February 17.

MR. WOLFE: And if we could entertain an evening or weekend.

COMMISSIONER DE JESUS: Yes. Any times you are available.

MR. COLLADO: If I may, I would like that strongly considered because my time during the day is severely limited.

COMMISSIONER DE JESUS: I would ask -- we will go with the majority of the Commission, so any dates that you have available, any times you have available,

please send them to staff. If that is evening, send her the evening. You maybe out voted by the majority or they may support it. Whatever the majority is, so we have a quorum, send them to Ms. Cepero.

MR. SCHERER: What are we going to do if we have a five to five tie?

COMMISSIONER DE JESUS: Mr. Teitler.

MR. SCHERER: Because there is only 10 of us.

MR. FINK: It's how you word the proposal.

MR. SCHERER: I beg your pardon.

COMMISSIONER DE JESUS: Hold on Mr. Fink.

Mr. Teitler.

MR. SCHERER: It just occurred to me last night, as I'm looking over this, that Mr. Eggelletion's appointee didn't show up, except the first day, and then he never replaced her, perhaps now for obvious reasons, and we have got a new County Commissioner who hasn't put anybody on here, but how could they put anybody on here that hasn't go through, so I don't know what we're going to do. That is a train wreck, and I just thought I would bring that up.

MR. TEITLER: That is an issue and certainly the charter was to have 11 members, and we don't.

MR. SCHERER: And then the next issue is, should the new Commissioner put somebody on and we try to educate them? It would be good to put somebody on who might have some experience with this.

COMMISSIONER DE JESUS: Point of information. I spoke with Commissioner Jones Monday night at the School Board ethics panel meeting. He didn't believe he had

enough time to thoroughly select somebody, to put them on. Perhaps in retrospect of what you brought up, we could re-encourage him.

MR. WOLFE: He had some ideas but they didn't live in his district.

COMMISSIONER DE JESUS: Right. Exactly.

With that being said, Mr. Teitler, if you could give us a legal opinion on that, what do we do should it --

MR. SCHERER: Perhaps we could suggest that somebody that comes on this committee that has some real experience already, that we wouldn't have to educate this new person, if Commissioner Jones would do something like that. I don't know. I'm flying a kite here.

COMMISSIONER DE JESUS: With that being said, if we could ask Ms. Cepero to give us our take-aways, and then I'll entertain a motion to adjourn, and please get your dates and times available to Ms. Cepero before our next meeting.

MS. RORAPAUGH: And you want evening and day time.

COMMISSIONER DE JESUS: Any time you are available, whether that is morning, mid day or evening, and any day you're available.

MS. RORAPAUGH: And I would encourage the fellow Commissioners to look at evening times also. I'm like you guys. I have a day job.

MR. WOLFE: Thank you.

MS. CEPERO: Basically the take-aways are going to be a couple of legal opinions from the County Attorney's office, one on the sunset of the Ethics Commission and the collaborative effort and what happens after March 2. Legal opinion on the tie vote we just discussed. I guess I'm unclear about the -- if that was extended or not, the

County Administrator and the former County Administrators, are we extending an invitation?

COMMISSIONER DE JESUS: I think we need to look at our dates, but I would be in favor of the current one to start.

MR. SCHERER: I would rather have the past ones.

MR. WOLFE: So would I, but we can discuss it next week.

MR. SCHERER: Did you put in there those two other measures in the draft, the sand bagging and the recusal, make sure they are in there.

MS. CEPERO: Those are things that Rob will put in the draft.

COMMISSIONER DE JESUS: Thank you all for coming. We're adjourned.

(The meeting adjourned at 11:30 a.m.)

Verbatim
Broward County Ethics Commission
January 20, 2010

MEMBERS PRESENT: Commissioner Neal De Jesus, City of Cooper City, Chair
Commissioner Carl Shechter, City of Pembroke Pines, Vice Chair
Howard Bakalar
Washington B. Collado, (Telephonic)
Alfreda D. Coward, Esquire
Kenneth Fink
Robin Rorapaugh
William Scherer
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Patti Lynn, Broward Coalition
M. Elaine Wilson, Member of the Public
Jean Russo, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the transcript of this meeting.)

An Ethics Commission meeting was held at 9:30 a.m. on January 20, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

(The following is a near verbatim transcript of the meeting.)

THE CHAIR: Good morning, again. Commissioner Scherer and Commissioner Brunson are supposed to be joining us by phone, so they may be beeping in. We will try to keep up with them if they do and see how long the line stays open for them, once we go. We're picking up, according to the Agenda, on the Continuation of Working Draft. And we left last meeting on page 10 (1) Office of the Inspector General. The intent for today, if you remember the discussion last meeting, was to go through that section and try to determine what would be applicable to us as an Ethics Commission that we would like to see in this Code or what should be amended and/or removed. I would like to ask Mr. Teitler for an explanation on what he put in at our request.

MR. TEITLER: First I would like to mention that, on a related issue -- yesterday the County Attorney's Office learned through Commissioner Ritter that she wanted a place on the agenda next week, a Motion to Direct the County Attorney's Office to draft an Inspector General Ordinance. So a Motion to Direct is going to be on the Agenda next week, which will be for a vote to direct the County Attorney's Office to actually draft an Inspector General Ordinance. The draft that you have all been presented here in the Code, is really just a framework of what was in the legislative proposal and in the Palm Beach County Ordinance. It's really -- since this is actually directing as well, the County to enact an Inspector General Ordinance, the provisions here would actually delineate specifically what it is this Commission wants in there.

MR. FINK: I'm confused. If I understood you correctly, we're now going to have three different versions of an Inspector General; one coming from the State Legislature and one coming from the Commission and one coming from the County Commission? Three different entities are trying to create an Inspector General's --

MR. TEITLER: Well, there are two. Through the Legislature and now through the County Commission.

MR. FINK: And then we have the opportunity to even modify either of those?

MR. TEITLER: Well, this is more of a direction on what this Commission wants in an Inspector General's Ordinance. Through the Code of Conduct, what this Commission wants -- this Commission is saying they want an Inspector General and the Code will allow this Commission to delineate what it is that they want and would direct the County in the creation of its Ordinance.

MR. FINK: Okay. Thank you.

(Mr. Wolfe entered the room.)

THE CHAIR: In addition there was an update. I received an update this morning from the Executive Director from the Broward Delegation that there has been some -- they're in the process of amending the initial Bill to include changes that were expressed by several of the Broward Delegation, and that draft will be ready Friday for review, and will be on their Agenda for Tuesday. They are to include the compensation of the Selection Committee, those that would hire and fire the Inspector General to include the appointment of the Mayor. It would include the requirement for an investigation, the requirement of a complaint to be made rather than just an At Will investigation, and what's third amendment --

MR. TEITLER: (Inaudible.)

THE CHAIR: -- and to include all Constitutional and Municipal elected officials; School Board and Hospital District. So those amendments will be in Friday's bill -- Friday's Draft and presented to the Delegation on Tuesday. Mr. Bakalar.

MR. BAKALAR: I'll hold it for now.

THE CHAIR: Floor is open for comments on Inspector General. And I would like to try to stay in order starting with (1) a., Create and Establish. Any thoughts? Mr. Fink.

MR. FINK: The fact that we create and establish one is pretty self-evident. We want one or don't. The feeling that I got from last week's meeting and the week before, is we think that's a much more (inaudible) way, then what they have created in Miami-Dade County, which is this mass of a $15 million a year entity to do this. So I guess to get the discussion started, yes, I think we want an Inspector General. I think the issues are who do we select him -- who does he report to and the thing that you just mentioned in the amendment is, does he have the authority to go At Will, or does it require a complaint to be filed? But 1-A is do we create it. I think we're all in agreement that we want an Inspector General.

THE CHAIR: I think staying consistent the way we have been doing this, if you don't have a problem with something that's there, we can move right on past it. If you're suggesting or recommending that we change something that's there; amend it, move it, et cetera, let's address it, if not, it stands At Will. What I would say, Mr. Fink, is bear in mind that if that State Law passes it's really irrelevant what we put in here and that becomes State law and that's going to be applicable. And this would reference the State law. But if we say in there that there doesn't need to be a complaint, and State Law says there does need to be a complaint then will supersede from what I have been told. Ms. Rorapaugh.

MS. RORAPAUGH: I'm not sure that is necessarily true, in that I think we can enlarge the powers of an Inspector General. And unless the Legislative Delegation Bill is going to limit to just complaints -- and I'm not sure that is the language we're looking at. You would know better. You had that talk this morning. Are they planning to just limit two complaints?

THE CHAIR: The initial Bill didn't require a complaint. I was told this morning by the Executive Director, that an amendment is coming forth this Friday that would require a complaint to be made prior to that Inspector General beginning an investigation. That was a concern with some of the Delegation members and that is why it didn't go forth the first time.

MR. WOLFE: In the course -- if the Legislative Delegation next Tuesday decides whatever -- say they have a horrible turn-out, they go back in their

“funk,” again and don't want to take it up -- we can simply take whatever we want out of this proposed legislation and dump it in the Bill, correct, for our purposes?

THE CHAIR: That is my understanding. Mr. Teitler.

MR. TEITLER: Dump it in the Bill?

MR. WOLFE: We can take any section out of the proposed Bill Draft.

MR. TEITLER: Yes. You can include in here that you want the Ordinance to provide that it has to be initiated by a complaint.

MR. WOLFE: Right. Or the other stuff, just simply -- I know we're trying -- just to be an outline right now, but if we want to take section by section, the selection process, the composition of how to report, blah, blah, blah, we can insert all of this.

MR. TEITLER: Right. As long as there is specific direction.

MR. WOLFE: I do like to see those amendments, though, that are coming Friday. Hopefully the Legislative Delegation will move forward, but I don't know if I believe they will it or not.

THE CHAIR: It would be my suggestion that we continue to move forth on this as if those two concurrent things; whatever happens with the Broward Commission or the Broward Delegation don't happen, we can't wait and see because of our time restraints.

MR. WOLFE: Correct.

THE CHAIR: I would like to craft this, starting through this section today, make recommendations to remove whatever needs to be removed, add whatever needs to be added, and whatever comes of those other two we will deal with them at the time. Mr. Fink.

MR. FINK: Could Mr. Teitler expound on Ms. Rorapaugh's comment that if the State does pass the Ordinance of complaint only, can we be more restrictive than the state?

MR. TEITLER: You can restrict then a State Statute, but it depends on what the desire is of this Commission, what parameters --

MR. FINK: That -- so my recommendation would be that it should not be by complaint only but I don't think that is the portion we're up to.

MS. RORAPAUGH: Actually it's not. I don't believe you have written in a limitation.

MR. TEITLER: Right. Hasn't been put in there.

THE CHAIR: Anything on Section 1-A? Section 1-B, Inspector General Code Provisions; minimum qualifications, general ordinance, contract and funding?

MR. FINK: B-1, do we want to discuss the Selection Committee itself, or who we think it should be? Bill?

MR. SCHERER: We'll get to that. That comes up later on in the Bill. I think it's there. Let's go down this. It says there shall be a minimum criteria and then we get to it later on. If that's your question?

MR. FINK: No. I guess my question is compensation of the Selection Committee.

THE CHAIR: It comes --

MR. FINK: Okay.

THE CHAIR: 1-C?

MR. SCHERER: We're not there yet.

MR. FINK: I thought you finished.

THE CHAIR: 1-C, Function, Authority and Powers.

MR. BAKALAR: While we're there, we might as well discuss the end -- actually subpoena -- all of this stuff without a complaint. I'm guessing this is the right time to discuss it. So I think we should talk about pros and cons here. Pro obviously is to be proactive, not to have to wait for complaints

that may not come because the public may not know enough of what is going on inside to complain. A con, of course, is the danger that you have; one person who may have an agenda who goes after repeatedly someone with or without cause. Just throwing it out there to start the discussion.

MS. COWARD: I'm on the side of being, I guess somewhat to the legislators, in that I think we should put something in that requires a complaint. And my interest is -- one of the things -- we have an individual who has an agenda that targets one person and maybe completely overlooking another; then we have no control over what that person is doing. More important to me, often times, quite frankly, historically, whenever someone has unchecked power to do whatever they want to do without any accountability, it adversely effects a community of people that largely look like me. And that is my concern. For a person to just be able to do what they want, whenever they want, is going to inadvertently affect certain communities more than others. So to eliminate that, to eliminate the abuse of power, then I think we should have a standard that would apply to everyone. And something as basic as a complaint is required, will apply to whoever the person is, wherever they are, if there is a complaint filed against them. That is my position.

MS. RORAPAUGH: I know on the federal level and in a lot of major governmental entities; state and city, the Inspector General is independent and can't conduct investigations without complaints. We have right now in Florida an Ethics Commission that can only conduct investigations with complaints, and all of us understand that that has created problems. Hopefully whoever the Inspector General is, is not conducting "witch hunts," because there is plenty of legitimate business to study here in Broward County. And if we leave it up to complaints; having run many campaigns in my life, I know how easy it is to go get a voter to file a complaint, and if 25 complaints are filed against a County Commissioner or City Commissioner, that has the same effect as a bad Inspector General deciding that they are going to go on a "witch hunt." I think the independence of this and the power of the Inspector General cannot be dependent on someone filing a complaint.

MR. SCHERER: I agree. I mean the purpose of the Inspector General is to -- the other powers that are here is to get involved in budgetary issues, to get involved in how the business is conducted, and if the Inspector General comes on something that is (inaudible) or some violation the Inspector General ought to be able to act without someone calling and filing a complaint. Secondly, there is an anonymous hotline that is available, that is a federal standard for compliance officers everywhere. And if we use the term in our mind, "compliance officers," in major corporations and public institutions, such as hospitals and other public institutions, they don't have to have somebody file a complaint. They fair it out -- problems to start with. So I think that is just giving people cover and it's not necessary. I don't think it's compatible with an Inspector General -- my idea of an Inspector General.

MS. RORAPAUGH: I agree.

THE CHAIR: I hear both sides of the argument. And I guess I don't want a venue for vindictive people to be able to "fire shots," at elected officials unduly, nor do I want an Inspector General -- Robin, you used the term, "hopefully." That concerns me. Because "hopefully," it's not you. So because there is a Whistleblower Protection Act that would allow people to remain anonymous, I think we're providing an avenue that allows people to make a complaint through an independent body without fear or concern that that person is being oversaw or persuaded by those that he works for. The way they're going to select this individual, according to the Draft Bill, is an independent Selection Committee who hires them and fires them without majority influence of the Commission, who this I.G. would be investigating; including those other Constitutional Officers and the likes of Carl and I as elected officials. I stated from the beginning that I'm going to support and recommend that we be held accountable to any Bill that the County Commission -- any Code that the County Commission is held accountable to, and that would include the Office of Inspector General. I just don't know that opening it up to an individual is the right thing to do at this time. I think it is "light years," ahead of where we're at, and there would be an venue or an avenue for those wishing to file a complaint, to file

a complaint. I don't think there is any shortage of people looking to see if somebody has done something wrong that would be that complaint forward. Mr. Scherer.

MR. SCHERER: It seems like we would be creating an office of an Inspector General that is independent and then putting "handcuffs," on "her." Somebody said, him. I said, "her," just to counteract Mr. Fink's "him," on Inspector General. So I don't think we ought to "handcuff her," I think she ought to be able to have unfettered access to her job without having somebody file a complaint that doesn't know. With respect to having false complaints, that is life. So if the Inspector General can't sort that out, we haven't gotten the right Inspector General.

MR. FINK: I think there may be times when an Inspector General, through a complaint, might uncover something else that was tangent to or cotangent to what he was inspecting, and although the complaint was not against that particular infraction, he may see that potentially another infraction might have been incurred; and if you put a restriction that only a complaint can trigger an investigation, that would -- to use Mr. Scherer's terminology -- "handcuff her," or him from investigating that tangent infraction -- and I think that is the danger of not having.

MR. WOLFE: I think the Inspector General, whoever he or she may be, has the authority to dismiss or find without cause, an issue or compliance or anonymous charge, because we would have some of that. But again, I'm getting back to my thought process and the language in here -- I hope everybody spent time reading the draft legislative Bill. I like it a lot, and it's detailed enough. There is things we can tweak in here and change, which I think some of the changes are good on the Selection process and stuff. But like one section here, on page 5, on the legislative draft, “paren, 7” it says, "Inspector General should of the power to receive, review, and investigate any complaints regarding County funded projects, programs, contracts or transactions. The Inspector General shall (inaudible) hotline and website to receive complaints from either anonymous or identified persons." And I think the Inspector General, whoever he or she may be, should have the authority to review those items and they're going to find if

there is cause or not. There is going to be people that abuse it. There's going to be some -- but within his or her work, I think they are going to find some things they want to investigate on their own. I don't think we should be "handcuffing," anybody, but again, I'm more in the inclination (inaudible) looking at this good Draft here, is I like a lot of the detail in the legislative plan and I think we ought to be reading this and putting it in this document and making the necessary changes that we discussed earlier. Because we're debating a lot of administrative procedures that are pretty much laid out in this draft Bill which (inaudible) with the legislative delegation, he looked at what Palm Beach adopted, looked at current State law and did the citations properly. And I think this is an excellent footprint. And I'm more -- (Inaudible.)

MS. COWARD: Couple of points I wanted to make. We're loosely using the word, that we don't want to "handcuff." We don't want to "handcuff," our Inspector General, but it's interesting that we consider "handcuff," as opposed to we don't want to have our -- do we not want to -- your our Inspector General to be held accountable; do we not want to hold them accountable? Do we have to look at it as "handcuffing," them to expect them to be accountable to a group of people and citizens? And if it's by complaint, that means citizens will file a complaint, it can be anonymous complaints, and then they're responding to the public complaints, and they're being accountable. How -- what we're proposing as a possibility, there is no accountability whatsoever on this person, and to merely hope that they're not going on a "witch hunt," to me is not satisfactory. It has to be more than hope. We have to put something in here that doesn't give a person power to do whatever they want, whenever they want, without accountability to anyone else whatsoever. And to say, "that's life," quite frankly, is unacceptable to me, because a lot of things that happen in life shouldn't, and the -- right now we have the power to do it right and we ought to take the time to do it right. Do we really think it's possible that there may be some stuff going on that people won't complain? I think the problem is we're going to have more complaints that are legitimate as opposed to too few complaints. So why not have a complaint be required? I think that would be a better way to go.

MR. SCHERER: I thought that we were going to put the legislative draft in here, and I know they're a moving target, so that actually we're going over the prior draft that has been substantially changed, as I understand -- I got here five minutes late, to which I apologize -- so I didn't quite hear that, but it seems like that is the one that we ought to be going over.

THE CHAIR: I gave an update that the Execute Director of the Broward Delegation gave me today, telling me that there would be amendments made for a new draft Bill that would come out Friday.

MR. SCHERER: Is that the draft Bill that you're looking at?

MR. WOLFE: Yeah. This is the old draft, but it's still --

MR. SCHERER: I thought we were putting the old draft in here.

MR. WOLFE: That's what I thought (inaudible) the last meeting too.

THE CHAIR: I think what happened is there was an amended version of the old draft put in here; is that what your update was, Bill -- I mean, Rob?

MR. TEITLER: No. This is really the framework of what you want in the Code of Conduct to state what you want in the Inspector General Ordinance.

(At this time Washington Collado joined the meeting via telephone.)

MR. TEITLER: You have to have an Inspector General Ordinance -- (Inaudible.)

(At this time, Washington Collado left the meeting via telephone.)

MR. TEITLER: (Inaudible.) It's pretty much giving direction. You wouldn't put in here the actual Inspector General Ordinance. You would put in what you want, you know, provisions that you want in it. The administrative aspects you probably don't want in here, but you want to give direction to the County Commission on what you want in the Inspector General Ordinance.

MR. WOLFE: Why wouldn't we?

MR. TEITLER: Well, it would almost be unworkable, it would -- the entire document would be incorporated within here. And I would think that preparing actual Inspector General Ordinance would take a great deal of time, probably as much time as it took to put this Code of Ethics together.

MR. WOLFE: I think the draft legislative Bill pretty much lays out the guidelines in black and white, what the parameters are. What we don't want to do is give the Board of County Commissioners a job of reestablishing the Ordinance -- they'll debate it for six years.

MR. TEITLER: Well, that is why you would give direction in here. You can get as specific as you want in these headings of the Code of what you want in your Ordinance.

MR. BAKALAR: I agree with Ms. Coward. I worry about "witch hunts." It's as dangerous as, you don't want a police officer pulling someone over on a hunch with nothing more -- and legally of course, they can't, and anything they find afterwards is inadmissible. I almost equate this to that. You need something to go on. Something.

MR. FINK: I did read this. And I thought there was a provision in here that the Inspector General himself did report to a troika composed of three different officers. I know there is a Selection Committee, but I thought he still had to report to somebody, and I'm trying to find it here.

MR. SCHERER: Well, it's not here.

MR. FINK: Not in ours'. In theirs'.

THE CHAIR: I don't know that the debate that is being discussed right now is who he reports to. Again, that is one of the amendments that they're making to the new Bill, the composition of that group of six to include the appointment of the Mayor. I think that argument is what prompts him to begin an investigation. In that discussion that we just had, I don't know that I would consider -- if he or she receives a complaint and begins an investigation, and in that investigation, find other issues, I don't know that that is self-initiating a complaint, he or she; they are doing their job and in the course of performing their duties they find an issue. And I think they

have a fiduciary, due diligence responsibility, to then pursue that. That's not coming into the office and saying, I don't have a complaint on the docket, let me see if I could "drum," some up without direction or without restriction. And I think that is kind of what I'm hearing some of the concerns are. So I think there is that recording piece that is clearly in the legislation, who will hire and fire, who will that person be accountable to, and then what prompts an investigation.

MS. RORAPAUGH: I appreciate everyone's opinions on this, but there is -- there are hundreds, if not thousands, of examples of Inspector General's in the United States. And in local governments, state governments, federal governments, rarely do we hear about "witch hunts," rarely do we read about abuse of power. Institutionally Inspector General's tend to be highly qualified, nonpolitical, nonpartisan individuals. And this Code calls for that. I think if you "handcuff," them, you only follow up complaints. Then why even have it? We have a state -- at this point I can file a complaint with the State Ethics Board and have the exact same thing happen. The only thing the Ethics Commission doesn't have -- the State Ethics Commission doesn't have the power to do -- subpoena. Well, maybe we should have a State law that allows them to subpoena records. "Handcuffing," an Inspector General for fear of this person who is going to be hired that has an outline of their qualifications, suddenly is going to turn into a "witch hunt," I think we're developing problems that aren't there, and we're anticipating problems that do not happen in other governmental bodies.

MR. SCHERER: Two points. Number one, I think we're "mixing apples and oranges," here, so having to have a complaint to initiate and then abuse of power by the Inspector General. The Inspector General supposed to report to an independent body that oversees the Inspector General, and if the Inspector General is abusing its power, it's up to that body to correct the situation. That is different from who can initiate a complaint. And I ask, who are we trying to protect here? I thought our mandate is to try to protect the people from their view that local government, county government, is compromised, and I thought that is what our mission is, number one. So I ask everybody to keep that in mind.

Second point, I thought that we were going to take the draft of the state court legislation and put it in here and go through it line by line by line, Rob, and as our Code, our attempt to make an Inspector General as a part of our Code.

MR. TEITLER: My question is why -- it's going to take considerable time. This Commission has probably a month, and not a month worth of the meetings, because --has a month to submit something according to what the Mayor wants time-wise. And in order to create an Inspector General Ordinance, it's going to take considerable time to craft that and put that together. Now this Commission can certainly put down the highlights and exactly the items that it wants in that Ordinance. But to create an Ordinance it's going to take a great deal of time, and I don't think this Commission has that time any more.

MR. SCHERER: I would like to see it in here.

MR. TEITLER: Basically the Legislative Act that was put together is in many respects verbatim from the Palm Beach County Ordinance.

MR. WOLFE: It is.

MR. TEITLER: It is. But whether that makes a "clean fit," with Broward County, those are issues. There are many aspects of that Ordinance and the Legislative Act that need to go through -- need to be gone through very carefully. And in order to just insert that entire Legislative Act in here, when it's actually been changed since it was put together, really doesn't make a great deal of sense when in one month we have to have final product to submit to the Mayor. But we can put a -- we can have a Inspector General section where we lay everything out, the important aspects of it that this Commission wants in the Inspector General Ordinance.

MR. SCHERER: I disagree with that. I would like to see the draft Legislative Bill in here for us to start looking at. If Palm Beach did it, we can do it. And if we're a month late, we're a month late.

MR. SHECHTER: If the Inspector General has the authority to institute an investigation initially, we're not suggesting that complaints would be

foreclosed. He could not respond to a complaint as well. Why not give him dual authority?

MS. RORAPAUGH: I agree. But I think what was being discussed was making his authority to investigate wholly dependent on --

MR. SHECHTER: Independently, yes --

MS. RORAPAUGH: But then --

MR. FINK: No. We're talking both.

MS. RORAPAUGH: Absolutely an Inspector General would have to follow up on complaints and would be compelled to, but I don't believe that it's appropriate to say that investigations can be opened solely based on complaints.

MR. FINK: If I understood Mr. Scherer correctly, he is saying the "blueprint," here, which is the legislative draft should be inserted into the Draft (inaudible.) I don't think that is "reinventing the wheel," and having to rewrite it. I think it's taking this language as it exists right now and insert it into the draft and let us pick that apart, which is fine. And the other point I wanted to make, I also agree with Ms. Rorapaugh, that -- Carl, we're not excluding -- we're not saying one or the other. We're saying, yes, he has to investigate complaints, but he should also, if something comes to his attention through another investigation, be able to initiate it himself. And the third thing is, by having him report, Ms. Coward, to a troika or whoever, he is limited, he will not have a free reign to do whatever he wants. He will be able to -- or he will be overseen by the people that appointed him.

THE CHAIR: I'm going to take a comment from Ms. Coward, and then I want to summarize on what we agree on and addressed last meeting in terms of inserting this Bill, to see if there is still consensus to do that and if so we will move from there.

MS. COWARD: Commissioner Fink, the fact that they report to someone else, report to a higher authority, that higher authority does not control, have any input on who they decide to investigate. The fact that they tell

somebody who they investigated to, is not my concern. The fact -- if there is a reality where there is no standard of investigation, is my concern. Now, if we want to not require a complaint and instead put in there they have to have found a suspicion or something, i.e., at least police have to use it -- there has to be a basis for an investigation, I'm fine with that. But a person to be able to sit there today and say, okay, you didn't speak to me in the hallway -- and I'm exaggerating clearly -- so I'm going to start investigating you, without any basis. Right now we have no standards whatsoever -- we say, complaint -- complaint is just one standard, but there are other possibilities; i.e., requiring some type of found -- or reasonable suspicions. There is things that we can do, whatever we want to do, but I'm insisting that -- and really trying to encourage people that at least let there be some type of standard, so this person can't just merely do whatever they want, and we will have to have, hopefully -- be something more than hope that keeps them on task.

MR. WOLFE: I appreciate your comments, Ms. Coward. And I think a lot of your concerns are addressed in that Bill draft. I mean, I really do. And I think we should look at the Bill draft and if you want to tighten up your concerns, that is where we do it. I understand your concerns, but I think it's addressed here.

THE CHAIR: I think last meeting -- and please correct me if I'm wrong -- it was the will of the this Commission to take the then draft Bill, which will be a different draft Bill Friday -- but we'll deal with it then -- and insert it into our Code of Ethics. We were to come back today with specific recommendations on what would remain in there, if not all in its entirety or what we would recommend pulling because it wasn't applicable.

MR. WOLFE: Would you like a motion, Mr. Chair?

THE CHAIR: Well, I don't think we need one to stay consistent with what we're doing. This is a working draft, and if it's still the will of this Commission, then Mr. Teitler, that's what I would ask you do, put it in there. And I think it will eliminate some of this debate, in terms of it's there, and then we can actually take that specific language and say, we agree with it

unanimously or the majority or we disagree with it. Because we're going to get to the voting part and that is where the "rubber hits the road," and we say yea or nay to all these recommendations.

MR. TEITLER: As a matter of clarification, do you want it to start with the Whereas clauses or do you want it to start with the actual body of the Ordinance? How do you want this?

MR. WOLFE: Create and establish section, Section A, and replace that all of the way through.

MR. TEITLER: Starting with Section --

MR. WOLFE: With the definition --

MR. TEITLER: Starting with Section 6? (Inaudible.) Starting with Section 3?

MR. WOLFE: Correct. In the title and definitions to make it current with your Ordinance -- I don't know how your County Ordinance has to do -- but I would say, create and established. Supplant that with the language in the draft.

THE CHAIR: And if -- once you insert that, Mr. Teitler -- we feel that there is something inappropriate, shouldn't be in there; whether it's specific language or content, it will be incumbent upon us as an Ethics Commission to recommend the removal of that. We need to come prepared with that specific language moving forward.

MR. FINK: Could you ask -- is there anybody that did not read this? Because there is nothing to stop up right now from going through this as if it were inserted into the -- I mean --

THE CHAIR: I think it needs to be in its entirety in the context of the Ordinance. And we're not going to start at the back and start voting. We're going to start at the front and start voting.

MR. FINK: I'm not talking about voting. I'm talking about language, right? If all of us of read this legislative Bill; is there anything in here that we want changed? Because that is really what we're discussing now.

THE CHAIR: I don't think there is other than we have been told that on Friday there will be a new Bill.

MR. SCHERER: We ought to wait for the new one.

THE CHAIR: So our next meeting we will be looking at a new Bill, which is not going to be maybe changed again that Tuesday, next Tuesday, when the Broward Delegation meets. It doesn't make sense to go through something that we know is in revision.

MR. TEITLER: Do you want this inserted, or do you want to wait for Friday's Bill?

MR. WOLFE: No. This inserted now.

MS. RORAPAUGH: Right.

THE CHAIR: Well, if it's being changed Friday, we're not going to meet until then, what's the difference?

MR. WOLFE: I would say, insert this Bill now and -- because we may or may not agree with what the Delegation -- I'm not holding my breath that Delegation is going to adopt this thing. I mean --

MS. COWARD: I would suggest -- and I understand they may not adopt it, but I don't think (inaudible) somehow restrict that they don't adopt it. I would suggest that if we're not going to meet before they have the new draft, insert the new draft and we have the old -- we don't like change -- we can still change it, but I thought -- think we should work from what is in the existing, even if they don't pass it.

THE CHAIR: To me that makes sense. Why ask him to insert this now and then Friday insert the new one that may change again on Tuesday? We're not going to meet again until then. You have a copy of the old --

MR. WOLFE: No. We can. I would just prefer when we bring back any action that may or may not happen next week, that we can review those as amendments, and whatever, because this body might not agree with them.

MR. FINK: I think that is the point right there. The fact of the matter is nobody seems to be objecting to too much of this. And if I understood you correctly, one of the changes they're planning to make on Friday is that nobody will be able to investigate unless there is a complaint. And we're sitting here -- I think that you --

THE CHAIR: I never said --

MR. FINK: You didn't?

THE CHAIR: No, sir.

MR. FINK: I thought I had heard that that was --

THE CHAIR: I did not say that.

MS. RORAPAUGH: No. I thought that was one of the amendments they were looking at was --

MR. FINK: Somebody said that this morning.

MR. RORAPAUGH: That the Inspector General would be confined to investigating complaints.

THE CHAIR: I'm sorry?

MR. FINK: You did say that. I'm not nuts. I look nuts, but I'm not nuts.

THE CHAIR: I apologize. That was not one of the amendments that I was told, that they would change --

MR. WOLFE: I'm not holding my breath for the Delegation people.

THE CHAIR: (Inaudible.)

MR. SCHERER: Could we get the -- I read the draft legislation about a half dozen times while I was waiting to speak on the two meetings and listen to

firefighters talk about their Bill. But -- so I'm familiar with it. Could we get a highlighted redlined copy of the changes in the amended version, Rob? Can you guys do that?

MR. TEITLER: The amended version? Which --

MR. SCHERER: Yeah. If we put the existing Inspector General language in here, like I believe everybody is asking you to do --

MR. TEITLER: If it changes then I can indicate that our --

MR. SCHERER: Right. So that I can then -- I don't have to read over everything again for the 20th time. Thank you.

THE CHAIR: Mr. Scherer, you brought up the firefighter issue again, and I need to clarify.

MR. SCHERER: I was teasing.

THE CHAIR: No, no. I need to clarify. Last meeting when that issue came up, I said, you know, those firefighters could be difficult. And some people --

MR. FINK: That's because you are.

THE CHAIR: Well, some people didn't know I was a retired fire chief. And I said it in jest. I didn't mean that they were difficult. And I just want to clarify that.

MR. WOLFE: We love firefighters.

THE CHAIR: I do too.

MR. FINK: I move that we pass a motion --

MR. SCHERER: Can we put that firefighter Bill in this Bill --

THE CHAIR: It has more support than this one.

MR. SCHERER: I was just fooling. I knew that. But thank you, for making the record. We're not taking on the firefighters, that's for sure.

THE CHAIR: The phone calls I got didn't know that, so I just wanted to clarify. So there is -- I think we have that issue resolved for now. We're going to insert the Bill, highlight those changes and amendments and be prepared and we will set meetings going forward.

MR. SCHERER: Can we talk right now about somebody else going on the -- rather than me, because I'm going to be out of town on business and I would like a substitute for the meeting, when they go to the Legislative Delegation. Maybe we can nominate somebody else to be the representative other than me, perhaps we should get somebody of opposite political persuasion than me, might help. Robin? So they don't make a republican, democrat issue out of it, at least in the press.

THE CHAIR: Let's bring that up under Other Business.

MR. SCHERER: There's a problem. I have to leave at 11:00.

THE CHAIR: All right. We're going to take this out of order since Mr. Scherer has to leave. He will not -- but we have nominated him as our Legislation Delegation representative. He will not be here the 26th to attend that meeting, and he is asking that we nominate a replacement. Is there a motion on the floor?

MR. FINK: I move that we replace Mr. Scherer temporarily for the next meeting with Mr. Wolfe and Ms. Rorapaugh.

THE CHAIR: I think one official is appropriate.

MR. WOLFE: I might not be able -- I got the "R" problem.

MR. SCHERER: I think -- I believe I don't know what everybody's politics is here, but I know that Robin is a democrat, I do know that because we worked together before. I mean, a couple of times, "lightening struck."

MS. RORAPAUGH: A couple of issues are nonpartisan.

MR. SCHERER: This is one. I recommend that -- I move that we have Robin Rorapaugh be our representative for the --

THE CHAIR: Motion for Mr. Scherer to appoint for the next meeting --

MR. FINK: Second.

THE CHAIR: -- Ms. Rorapaugh. Second by Mr. Wolfe. All in favor signify by saying, aye. All opposed? Same sign. Thank you for agreeing, Ms. Rorapaugh.

MS. RORAPAUGH: I feel a roasting going on.

THE CHAIR: You may, yes, ma'am. I don't know why you would want to do that, but you certainly can.

MR. WOLFE: I might not stop by, but I have a real tight --

MS. RORAPAUGH: When is the meeting?

MR. WOLFE: Tuesday now.

THE CHAIR: Tuesday, 2:00 to 4:00.

MR. WOLFE: And I might not be able to be there so --

THE CHAIR: I will be there.

MR. SCHERER: I urge everybody that can make it, to make it, particularly the elected officials who have a little more clout than the rest of us. Perception is reality as they say.

MR. FINK: What is the location?

THE CHAIR: Broward College. 12th Floor.

MR. FINK: Which campus?

MS. RORAPAUGH: Downtown.

THE CHAIR: Downtown. 12th Floor Board Room. We're back to the Continuation of Working Draft, and outside of this I.G. I don't believe there is anything else. Everything else falls under that I.G. Bill; am I correct, Mr. Teitler?

MR. TEITLER: Well, there is a section that we actually could get into, it's after the Inspector General portion, after the Inspector General does its job and finds cause or no cause, whether it be misdemeanor or civil, for civil infractions, the finding the Inspector General needs to go somewhere. A panel of --

MR. FINK: So you're talking about number 2, on page 11?

MR. TEITLER: Yes, Number 2, Page 11 for civil infractions. What kind of tribunal or panel this Commission wants.

THE CHAIR: Although I can cite it, I remember reading that within the Bill; is that not in the Bill?

MS. COWARD: I thought it was in there.

MR. SCHERER: It's in the Bill, Rob, and it's pretty well done in the Bill, in my opinion.

MR. TEITLER: I thought it says it refers it to the appropriate --

MR. SCHERER: No. The next draft -- the original one was pretty rough. They amended it again. The one we were working on has it in there, I think. And if it's lacking, we can take that up, but I don't think we need to create a whole new --

MR. TEITLER: To make sure I have the right copy, could you tell me where that is?

MR. SCHERER: No. I don't --

MR. TEITLER: Bob; do you have that?

MR. WOLFE: Are you asking if there needs to be a Board that he reports to back on compliance?

MR. TEITLER: No. Once he makes his investigation at a finding, a finding of cause; what tribunal is then going -- perhaps quasi judicial?

MR. SCHERER: My understanding is he had the panel of options available of Ethics Commission, Florida Ethics Commission.

MR. WOLFE: State Attorney.

MR. SCHERER: Yeah. United States Attorney if it's criminal. The full gamut of who you would report an infraction to. And I think it's -- I don't think it's -- well, I don't know -- if you want to expand that -- but it seems to me that apparatus is already there and we don't need to recreate that.

MR. WOLFE: I believe the intent of the legislation, Mr. Chair, was to have that compliance officer investigate and then send his or her findings to the appropriate body, whoever that may be, if it's the County Commission for their intention, if it's the State Attorney, if it's the Florida Ethics Commission.

THE CHAIR: Let's do this. We will get wrapped up. We're debating this again, whether it's in the Bill -- let's get the Bill in the Code and let's come back next meeting ready to discuss the Code in its entirety, including that Bill as amended on Friday, and/or Tuesday, whatever the most current is. And then we can move forward with how that works. What I would like to do at this time, with what that being said, I believe that the Code is inclusive including that language. If something else comes up that was not in that Bill that we need to add to the end we can do that. I believe this would be an appropriate time to go back to the front and begin looking through item by item, and literally moving through a yea or a nay, issue by issue. Understanding that at the end of the day we will take a final vote on this Code of Ethics to be presented in its entirety. So I say that to say this, we want to move forth the section by section and say, yes, let's keep that language, let's amend, let's add, let's delete, let's whatever -- it's the will, the majority of this Board and we will begin to take official votes section by section. But just note, at the end, it's going to be voted in its entirety. In other words, when we get to the last issue and we vote, we haven't voted on the entire Code of Ethics, we will take a complete vote at that end. Is that clear to everyone? With that being said, if we can go to the front, outside of the Statement of Policy, unless somebody feels some of that language should be changed, we should probably move to either approve

or disapprove or amend The Statement of Policy. And I will give us a few minutes to read through that section.

(Mr. Scherer left the room.)

MR. WOLFE: The wording, Mr. Chair -- the wording -- and I know we have been having discussion about this, but on one paragraph we're saying, drafted by the Broward County Ethics Commission with the sole and expressed purpose of regulating behavior of the Broward County Commissioners; should that, Commissioners, vendors, staff -- or should we just leave it Broward County Commissioners, is that going to bind us in a legal challenge at all?

MR. TEITLER: Well, that was written to comply with the Charter. That is almost a verbatim of the Charter, which is probably appropriate there.

MR. WOLFE: I'm asking just asking if that -- because we're going to make citations later on and that sort of goes beyond that.

THE CHAIR: How does that affect that, Mr. Teitler?

MR. TEITLER: I don't think it really affects it. I think it's appropriate in that explanation, paragraph, to give the genesis of what this is all about.

MR. FINK: Are you saying it's inappropriate to add, "and staff"?

MR. TEITLER: Well, because that is not stated within the Charter.

MR. FINK: Okay.

MR. SHECHTER: On page 2, the very first line where it says, even the appearance and perception; shouldn't that be all?

MR. FINK: It should be and or. I wrote the same thing. And or perception.

MR. SHECHTER: (Inaudible.)

THE CHAIR: Anybody have any problems with that?

MS. COWARD: No problems with that.

MR. WOLFE: No problems.

MS. COWARD: I would put or, and not and or. That's means either one of that. It could be both, but either one.

(Mr. Scherer entered the room.)

THE CHAIR: Okay. Section A, Statement of Policy; any concerns of that language, noting the change from and to or? I need a motion to approve that section.

MR. WOLFE: So moved.

MR. BAKALAR: Second.

THE CHAIR: With the amendment. Moved by Mr. Wolfe, seconded by Mr. Bakalar. All if favor signify by saying, aye. Any opposed? Same sign. Standards of Conduct, B. Take a moment to read that please, we'll address it. Questions or concerns with the language within Standards of Conduct B?

MS. RORAPAUGH: Do we need to address, determine, the I. D. Question, and some of the others that are --

MR. TEITLER: That was just a note to this Commission, as when we start getting into the actual Standards of Conduct, which ones you want to identify.

MS. RORAPAUGH: Okay.

MR. FINK: Have we done that yet?

MR. TEITLER: No.

THE CHAIR: I think that should be done before we approve this section. I'm not the "sharpest knife in the draw," but it seems to make sense.

Mr. Teitler, do you have recommendations as to what those should be?

MR. TEITLER: Well, under Chapter 112, I know for many, many years they haven't had any of those specific standards of conduct, criminal, in terms of

misdemeanors. But I know that there is a Bill in the legislature right now, 112, 31, 71, which is proposing that three sections of Chapter 112 be designated as misdemeanors.

MR. WOLFE: I agree.

MR. TEITLER: It's the subsection dealing with gifts, with unjust unauthorized compensation, and the miss use of public position; those three sections of Chapter 112, by this Act are being proposed to be misdemeanors. So that is just food for thought.

MR. WOLFE: Mr. Chair, for the sake of discussion, I move the adoption of the language in House Bill 343 verbatim as misdemeanors involving solicitation or acceptance of gifts, unauthorized compensation, misuse of public position, a person that knowingly violates Section 112.313 (2) or commits a misdemeanor in the first degree punishable as provided in Statute 775.082 and by a mandatory fine of 5,000 for each offense in addition to any other penalties imposed under Section 112.

MR. TEITLER: So you want to insert that direct --

MR. WOLFE: For discussion. To put it in there so you guys can --

THE CHAIR: With that being said, is that language that that Commission would like an opportunity to review in its context, rather than take it on the floor?

MR. WOLFE: Or if you want to accept it for language to put it there to review it at the next meeting, it's a appropriate.

THE CHAIR: I Would like to do that, and with that, we will move beyond Section B and come back to that. Is that okay with the majority of the Commission?

MS. RORAPAUGH: Uh-huh.

MR. WOLFE: Yes.

THE CHAIR: Number 1, Acceptance of Gifts.

MR. FINK: Question. County Commissioners, their spouses, or registered domestic partners; what about an unregistered domestic partner?

MR. BAKALAR: I think "registered," is a good word there, because you run the risk of, okay, I'm dating someone, oh, okay -- you don't want to get so wide that it's impossible to regulate. I think that is why "registered," leads to specific terms.

MR. SCHERER: Where are domestic partners registered,

MR. BAKALAR: Here at the County.

MR. WOLFE: Point of information. State of Florida does not -- in their wisdom does not recognize domestic partnerships, but our County does the Ordinance, and there is a procedure in Broward County for registering your domestic partnership relationships, and it does provide rights specific to Broward County, which I think is a good thing. But we are unique. There is only a couple of us counties in Florida which allow -- they tend to be hospital visitations, it extends -- certain County benefits to domestic partners within Broward County family, that type of stuff. I think the reason (inaudible) using this language, because the domestic partnership registration (inaudible) to Broward County.

MR. BAKALAR: And domestic partnership is any one. It's not male, male, female, female; it can be male, female. It's folks living together, so --

MR. FINK: But the point that was raised was, what is a registered domestic partner, and where is the registration?

MS. RORAPAUGH: Registered at the County.

MR. FINK: What if somebody doesn't register? We have lobbyists that don't do that. Domestic partners probably might not do that.

MR. BAKALAR: But that too would be impossible to regulate, as far as, okay, I dated them once, okay, they're moving in, okay, we have -- where do you draw that line by registration you have an easy line, an easy

standard; so what would you then draw a line at, Commissioner, I think if you weren't registered as domestic partner --

MR. FINK: I would draw the line on reality not who is registered. I would draw the line on reality. If they're living and cohabitating there, and their mail is going there, but they're not registered, they're a domestic partner.

MS. RORAPAUGH: Or they could be -- right.

MR. SHECHTER: Register --

MR. FINK: That's my point.

THE CHAIR: I think we're -- if I subscribe to that argument, Mr. Fink, then I'm defining that relationship. And I don't know what that relationship is. If I have a roommate -- Ms. Rorapaugh, that is exactly what I was thinking when you said that -- that's living with me, according to your definition, they're residing there, they're getting mail there, that doesn't make them a domestic partner.

MR. FINK: So but to carry that to the next level; if the purpose of this is the receiving of gifts, which is what we are talking about here, and they're living there as a roommate, under whatever circumstance it may be, and that roommate is receiving gifts that the Commissioner or senior staff member could have the benefit of, like two tickets to a Super Bowl game, and the tickets were given to the non-registered roommate, I'm not sure we haven't created or left a loophole there that we can could get around by using the word, "registered."

THE CHAIR: I agree. But I don't think that changes them to a domestic partner. If that's your concern then add, "roommate," in here. It doesn't change the definition of domestic partner, there's not relationship there. So if you want to include roommates then let's talk about adding that language for roommates. Friends, which is in there -- relatives --

MS. COWARD: When we initially put this in here, we put registered domestic partner, we were trying to do something a kin to spouses, and we (inaudible) registered domestic partner -- is mostly -- it's close to a kin as

spouse as we can get. I believe that was our initial intent. My suggestion is that we go with the language that we initially agreed on, because it does meet the needs that we had initially identified.

MR. SCHERER: Isn't it covered in first two or three words of the third line, directly or indirectly?

THE CHAIR: I believe so. Yes, sir.

MR. SCHERER: So that you know (inaudible.)

MR. WOLFE: Move adoption, Mr. Chair.

MS. COWARD: Second.

THE CHAIR: We got a motion to adopt Section 1-A, Acceptance of Gifts, moved by Mr. Wolfe, second by Ms. Coward. All in favor signify by saying, aye. Any opposed, same sign?

MR. SCHERER: I oppose it. We're not going to discuss -- I oppose the adoption of the whole thing. I would like a discussion on it. I'm sorry.

THE CHAIR: I apologize. I thought there was no further discussion. Okay. We had a motion on the floor and a second. Let's recall if that's an appropriate procedure, Mr. Teitler, that vote. We still have a motion, we have a second. I should have asked for any further discussion.

MR. SCHERER: I thought we ought to put a period after, directly or indirectly, and strike everything else.

THE CHAIR: Hold on a second. Let me make sure that we're okay procedurally. Mr. Teitler? Okay. I need a motion from the prevailing side of that vote.

MR. BAKALAR: I'll vote.

THE CHAIR: Thank you. Motion to reconsider by Mr. Bakalar. Is there a second. Second by Commissioner Shechter. Let's continue discussion.

MR. SCHERER: My view is that we ought to put a period after the third -- after "indirectly." Maybe it could write a little better. And that is they shall not accept gifts. Period. Period. And strike everything else.

MS. RORAPAUGH: I'm not sure I want to tell an elected official or a County Commissioner that they're mother cannot give them a gift and that they can't receive gifts from loved ones, or family members, or whatever, Bill. That's a little too restrictive.

MR. SCHERER: Well, I see the problem, because once you say, we're going to have an exception, we have it. I mean, I don't care how we word it, but I don't think we ought to have -- take (inaudible) not to do it. You know, maybe you ought to say, in connection with their job as a County Commissioner. But I don't know how to do that. I think all these exceptions is where they get into trouble. And to me -- and some of them don't accept them, you know, they send the fruit baskets down the road and they just don't accept them. Period. A lot of them do that.

MS. RORAPAUGH: Right. And I think that that is the distinction. An elected official is presented gifts by a variety of individuals or institutions. We're saying you cannot accept those if they are being given because of your position. And that means -- by going through and saying, lobbyists, vendors, contractors -- that's in essence what you are saying.

MR. SCHERER: Well then, how about directly or indirectly because of your position. Period. As a County Commissioner. How about that? I'm a just trying to get rid of the loop hole.

MR. WOLFE: I think what we were trying to do, if my memory serves me right, early on we tried to draw a distinction between the Commissioners daily or weekly job, that we didn't want to be as draconian to say that Commissioner, you can't have your meal at the Kiwanis Club, you can't go to the Rotary Club, you can't take a T-Shirt from the clean sidewalks rally you're having at City Hall. What we were just trying to do is saying, if you're a vendor, if you're a registered lobbyist doing business in front of the County here, and the Commission, we're not having gifts, period. Because we also do the distinction, the next paragraph's saying that we still

recognize Chapter 112, but we're even considering putting a monetary -- because we weren't really concerned with coffees, and bagels in conjunction with doing something in their community. That is one of the problems that the State legislators have with a lot that was passed in Tallahassee. But we wanted to clamp down with lobbyists, vendors, and people doing business in front of them. No golf games, no dinners or lunches at B-O-B-A (phonetic) discussing the contract, but if you're going to the Rotary Club, yes, you can sit there and have a meal with your constituents. And if it's over the line, you report it. That is my opinion.

THE CHAIR: Any support for Mr. Scherer's recommending to modify the language?

MR. FINK: If we're going to have to qualify, should we now add registered domestic partners to the list of people that -- in other words, if we're not going to modify it the way Bill is recommending, and we say, from registered lobbyists or any principal employer of a lobbyist or vendors, contractors or registered domestic partners? No? Okay. Registered domestic partner would therefore give them the gift (inaudible) give Commissioners a gift, right?

THE CHAIR: I don't read it that way.

MR. FINK: Okay. I'm just asking. Devil's advocate.

MR. WOLFE: I move adoption.

MS. RORAPAUGH: Second.

THE CHAIR: We have a motion. We have a second. No further discussion. All in favor signify by saying, aye, again. Any opposed, same sign?

MR. FINK: Nay.

THE CHAIR: I apologize for not asking for further discussion. I'll put that on my list. Section B, any discussion on that item? We have to determine a value.

MS. COWARD: Question. Does 112 currently have a value in it?

MR. TEITER: No. Well --

THE CHAIR: It does. Yeah --

MR. TEITER: Hold on.

MR. WOLFE: They just have to report above a certain threshold.

MR. TEITER: From a member, from a lobbyist --

MS. COWARD: In B, we're trying to put in a value, a maximum value. And I wondered if 112 --

THE CHAIR: 112 is $100.00.

MR. TEITLER: Yes. It's $100.00.

MR. WOLFE: Point of information, Mr. Chair. One thing which gets back to training and everything too, we had instances in the community where we have reportable individuals that report gifts and they simply haven't because they jump on a get airplane to see a Jets game, oh gee, I didn't report my gift. And that goes back to training and all that type of stuff too. There is -- Chapter 112 provides for reporting requirements; however, I think it's incumbent upon us to put "teeth," behind it that oops, you're a staff member, you're an office staffer, you're a Commissioner, you forgot to report it, then there should be some initial penalties (inaudible.) I don't think reporting things is wrong. I think it's a good thing. It's when you don't is when you need to have some "teeth," in the Ordinance.

THE CHAIR: Is there a recommendation for a value? Is that consistent with State Statute or lower?

MS. RORAPAUGH: I would say, 25.

MR. FINK: The State Statute is 100?

THE CHAIR: Yes.

MR. FINK: What can you get for $25.00?

MR. WOLFE: I believe $100.00 is the ceiling, or it's a reportable ceiling.

MR. TEITLER: Right. If it's over 100 you have to report it.

MR. FINK: So why would -- (Inaudible.)

MR. TEITLER: So that's a reportable threshold from a non-lobbyist.

MS. RORAPAUGH: But from a lobbyist --

MR. TEITLER: From a lobbyist --

MS. CEPERO: (Inaudible) But from a lobbyist (inaudible) it cannot be valued more than $100.00.

MR. TEITLER: Yeah. You can't -- (Inaudible).

MR. WOLFE: Vendors, lobbyists, nothing.

MR. TEITLER: Right.

MR. WOLFE: This is like -- what we're talking about is you are at the Rotary Club, you're at that charitable event, you're getting a gift of your marriage. That's what we're talking about. We're talking about reporting under a certain threshold.

MR. TEITLER: Right. If it's a non-lobbyist they can accept the $500.00 gift, but you have to report it if it's over $100.00.

THE CHAIR: And this says, not otherwise consistent (Inaudible.)

MR. TEITLER: Right.

MS. COWARD: In B we're talking about the reporting amount or the maximum -- we're talking about the maximum amount, right? The max they could get regardless, not just the max they have to report?

MR. TEITLER: Right.

MR. FINK: I think 25 is really good (inaudible) for reporting.

MS. RORAPAUGH: I understand.

MR. FINK: 50. I'm recommending above 50.

THE CHAIR: Is there any support for recommending of 50?

MR. FINK: Don't all shout at once.

MR. SCHERER: I don't think they should take any gifts, but (inaudible) and I'm hopeful we get into the next level that they shouldn't be taking reportable gifts of $500.00 or more to report it. They should not be taking those gifts that they have to report. I think we ought to say, no, on reportable gifts that allows them report a $500.00 gift from somebody, if it's not a lobbyist or vendor because of their position of a County Commissioner.

MS. RORAPAUGH: I hear what you are saying.

MR. SCHERER: That's my issue.

MS. RORAPAUGH: They should have a complete gift ban is what you're talking about.

MR. SCHERER: Exactly.

MR. FINK: Of anything $50.00 or more.

MR. SCHERER: Yeah.

MR. TEITLER: If you make the amount $100.00 or under then there would be no reporting. It's only if it's over 100 does it have to be reported.

MR. FINK: Well, what Bill is saying, if I understood correctly, they shouldn't even be accepting a gift of over $500.00 regardless of whether they report it or not.

MR. TEITLER: That is why you have, in paragraph B, the ability to put some kind of maximum value.

MR. FINK: So this paragraph B as I read it has nothing to do with reporting. As it's written right here there is nothing that says --

MR. TEITLER: Right. We're not changing the reporting threshold. You just want to discuss the amount.

THE CHAIR: The reporting threshold is in the Statute. Mr. Teitler, let me give you the scenario. If an elected official is invited to United Way dinner and the value of that dinner determined to be, of that function, the tickets were $125.00 each; would that County Commissioner be disallowed to attend that charitable function?

MR. TEITLER: No.

THE CHAIR: But they have -- would have to report it. So if we change that and said, none, those elected officials would not be able to attend a function such as United Way fundraiser, because there is a value associated with that plate --

MR. SCHERER: Or they can pay for it like everybody else.

MR. FINK: But that brings us back to that original discussion that we had in the beginning is when they're honored as the Man of the Year for a charitable --

MR. WOLFE: Person of the year.

MR. FINK: Woman of the year. Give me another ten years. We're getting back to that original discussion that we had. Of the $125.00 ticket, it's deemed that they're paying the catering hall $66.00 for the dinner, which is what the IRS criteria is, and the value of that is $66.00, but we're not allowing that organization to honor that individual. And should they have to pay for their own tickets to be honored in order to raise money for that charity? And I think we all were in agreement that they don't want to prevent that from happening.

MR. SCHERER: Look, they all have campaign accounts that they keep money in and they use it as they want to use it to want to pay for things like that, that are reported as spending on their campaign, they all carry -- they don't spend it all, I don't think. They keep it back. They can use it for that or they can take it out of the money they earn and pay it like everybody

else. I just think we get into too much of this stuff. You're better off by saying, no.

MR. WOLFE: Except that under certain state statutes that really say no to that, then we have to itemize every single exception to that. And like I said, I don't think there is anything wrong with a Commissioner getting flowers, a plaque, certificate of appreciation from their homeowner's group, be able to break bread with their Synagogue, with their constituents. I think we have done a giant leap forward by saying, nothing of value from vendors, lobbyists, contractors, people doing business in front of the County. I think if you're in front of the Rotary Club, again, I think it's part of their business to accept something of value, and I think as long as we provide transparency -- conversely though, when people willfully violate the gift Ordinance and don't disclose airplane trips and golf trips and things like that, then I think we have to be heavy on the enforcement end -- a $5,000.00 violation, or is a potential jail sentence if you're not disclosing that. I don't think we want to restrict an elected official or the staff, which this is going to apply to, from doing their job and representing themselves in front of further constituents. We have to balance this a little bit, I think.

THE CHAIR: Is there a motion on the floor for --

MR. FINK: I think Ms. Rorapaugh wants to speak.

THE CHAIR: I apologize, Ms. Rorapaugh.

MS. RORAPAUGH: That's quite alright. I'm going to make one more "pitch," for $25.00. That would encompass golf games -- well, golf courses I've been to. I haven't been to one in a long time.

MR. FINK: Only summer time.

MS. RORAPAUGH: It also would encompass most banquets and meals where I have a table and I give tickets to a Commissioner and whatnot, but at the same time the local democratic or local republican club could still give you a cupcake, you can still take a T-shirt, you can still take a cup of coffee. If we move that to 100 you will -- that gap starts moving you into the "land," of being able to take a golf game, which I'm not against

Commissioners playing golf. I think it's a wonderful sport. But I think when we're talking about table prices, admittance to a fundraiser, to a charitable event, et cetera, et cetera, 25 limits that, it make is very reportable. $100.00 puts a lot of stuff "under the line."

MS. COWARD: On the same -- I think 25 is too restrictive. I've planned a lot of funding events and community service events and you can't eat anywhere for $25.00. Even if you hire a place to have a breakfast, it's probably going to be more than $25.00. I agree with Mr. Wolfe, we want our Commissioners to be able to be in the community and do simple things, small things. I think we all agree, no Commissioner is going to sway a vote on a major project because they got a $50.00 lunch. I don't think that's the problem. I agree we should have a maximum. I think 25 is too restrictive. I was going recommend that we do the 100 per the Florida Statute, but not as a reporting requirement, but as a maximum, period. (Inaudible.) The plate is going to be cheaper than that, although it will probably be around 50 or 60 and alternatively, would suggest we do 50 at the extreme end, but I would recommend us consider 100 as a maximum, as opposed to just what the Statute -- as opposed to the reporting maximum.

THE CHAIR: Is there a motion on the floor to include an amount within Section B,

MR. FINK: I made a motion for 50.

THE CHAIR: Mr. Fink has made motion a motion for 50; is there a second?

MR. BAKALAR: I will second it for --

MR. SCHERER: I think this area has caused the public as much concern as anybody else, because the hint of impropriety is there; and how many times have you heard that perception is reality? I think this is silly. When I go to a business lunch and I spend 100 bucks, I write it off, and you know I have -- you know I -- 60 -- 40 cents back on my taxes, like everybody else and you pay for it as you go. And all of this -- so where's the mentality that a County Commissioner should get a "free ride"? Why don't they pay like

everybody else and put it in as a business expense and get on with it? So I just think the appearance of taint is here with respect to these gifts. So we ought to be as draconian as possible. And I don't think the County Commissioners care a bit about that. I think they can all afford to pick up their own drinks, and their own dinners, and their own lunches, and they write it off, and also they have campaign accounts that they have money left to do that kind of thing also, I think. So again I ask everybody to keep an eye on what the public really wants us to do here, and I don't think the Commissioners care a bit about this.

MS. RORAPAUGH: Point of information, Bill. They have to close down their campaign accounts 90 days after --

MR. WOLFE: They get an office account, $10,000 I believe.

MS. RORAPAUGH: Yeah, it's --

MR. SCHERER: A $10,000.00 office account ought to buy all the $100.00 lunches and all the bagels they can eat in a year.

MR. WOLFE: Question for Counsel. I can't remember -- Chapter 112 in the provisions of statute; does that exempt mom buying you a Christmas present or your wife buying you a bracelet or a Rolex for Christmas?

MR. TEITLER: I think personal gifts from relatives are exempt.

MR. WOLFE: Wedding gifts.

MR. TEITLER: Yeah.

MR. WOLFE: I want to make sure, because I don't --

MR. FINK: You have a concern?

MR. SCHERER: Yes.

MR. FINK: You have a concern that the "pendulum is going to swing all the way over to the other side," rather than being -- moderated by the -- right now the "pendulum," by the perception by the people -- and I'm sensitive to your appeal about we need to do what the people expected us to do -- but

are they expecting us to make it so unrealistic and so restrictive that -- because remember, this will supposedly going -- to get translated to staff. And that's the other thing I didn't think about. Staff shouldn't be accepting gifts on any level.

MR. SCHERER: I don't want staff to get gifts either. But my point is that this area is an area that causes the public to be -- to be suspicious or distrustful of our government, and I don't think the County Commissioners care a bit about this, because they make enough money and they have that $10,000.00 office account, and they don't need it. And we ought to just have them do that. Because I think we will get more mileage. And I would like to hear -- we have a couple of elected officials up here. I would like to hear what they have to say about it, because I respect their opinions even more than my own on some of this stuff.

MR. SHECHTER: Well, I'm glad you said that. That was my thought. I go to a lot of ribbon cuttings, for example, and after you cut the ribbon you go inside and you have a cup of coffee and you have a whatever; how do you deal with that? Is that a gift,

MR. SCHERER Well, we have $50.00 or $25.00 limitation.

MR. SHECHTER: But you want to limit it to --

MR. SCHERER: I think maybe this 25 to 50 is a good thing, because then you have -- don't have to report it, because that's a cup of coffee. I'm talking about reportable gifts above that, and I'm talking about -- I'm just saying, we don't believe that is a gift.

MR. SCHERER: That's right. I don't consider that a gift. I consider that a chore. I cut a ribbon, I stay for an hour, an hour and one-half, and it's a public duty.

MR. SCHERER: I don't think this lousy coffee is a gift either, but I haven't --

THE CHAIR: You're ungrateful, Mr. Scherer.

MR. SHECHTER: Public officials do appear very often in public places and there is (inaudible) --

MR. SCHERER: I don't believe that is a gift and neither do you.

MR. SHECHTER: No, I don't. But it can be interpreted as --

THE CHAIR: I'm not up for reelection, but I wouldn't call it a chore, I would call it a pleasure.

MR. SCHERER: I don't think it's a gift. You know what a gift is. And if it's a100 buck meal at a fancy -- at B-O-A-'S (phonetic) or someplace, you ought to pay for it yourself, which I'm sure you probably do, and write it off.

MR. FINK: The motion is $50.00.

THE CHAIR: Let's continue the discussion on the motion of $50.00, on Item B.

MS. COWARD: I was going to make a point that Commissioner Shechter made, but I think we may be clear and have consensus on that. My concern was that it's not like an event that they ordinarily have to pay for, if they were to go to a meeting and have bagels at the meeting, if we say, a band, and they can't even eat it, or they say, well, how much did you pay for this bagel, so I can come out the pocket for that $2.00, I don't think that is what we intend. I think we need an amount that allows them to participate in events with the financial --

MR. SCHERER: May I make one last point? I have to go because I have a meeting that I cannot miss. But I have been involved recently with federal officials of an investigative nature; they won't take a cup of coffee. They have rules. They won't -- you can't give them a cup of coffee, you can't -- no, they won't take water. They bring their own water. They won't take bottled water. They take it out of the tap. I thought that is probably way over the other way, but then there's never an issue, there is never an issue. I thought how simple.

MR. FINK: So what number do you want?

MR. SCHERER: I don't know. I don't care. I will -- 25 or 50. I don't care. You guys know about that. I don't have a problem with that because I don't consider that a gift anyway, if it's under 25 bucks. It's not a gift. The issue on this gift thing -- well I don't --

MR WOLFE: Call the question or just --

THE CHAIR: Yeah. There's a motion on the floor. I would like to call the question.

MR. WOLFE: At 50.

THE CHAIR: At $50.00. It's been motioned by Mr. Fink, second by Mr. Bakalar. All in favor signify aye. Opposed? Same sign. The motion passes.

C. And that was at $50.00. C, any gift received by County Commissioners -- I'm not going to read it. You all know. Thoughts or comments? We need to identify some time frames and parameters within there. Monthly --

(Mr. Bakalar left the room.)

MS. RORAPAUGH: Monthly.

MR. SCHERER: I again, think there should be no (inaudible) they should not accept anything above the $50.00 level, period. So there is no reporting requirements, because you can't do it.

MR. TEITLER: I think C means it would be anything under 50 and under.

MR. FINK: No. I think he's right. You knock out C.

THE CHAIR: You don't need a C.

MR. SCHERER: Let's make it read that way.

MR. TEITLER: You want to eliminate C,I because you're deeming anything --

MR. FINK: No gifts shall be received over $50.

MS. RORAPAUGH: I think C is reporting the gifts under $50.00, the gifts you receive under $50.00.

MR. TEITLER: Right. Under $50.00. You want to keep track. It's any gift you receive that's appropriate, which is any gift under $50.00 you have to disclose. That is part of the transparency issue.

MS. RORAPAUGH: Exactly.

MR. FINK: No. I think what Mr. Scherer is saying, which I may agree with, is that we're saying, you shouldn't be taking any gifts, period, over $50.00.

THE CHAIR: Right. But that is under 50.

MS. RORAPAUGH: This is to report the gifts. You can't accept any gift above 50, and you have to report all gifts that you receive. (Inaudible) above 50, but everything you do, received under 50, you do report. That is to report gifts under 50.

MR. TEITLER: As the report gets under 50.

MS. COWARD: Could you repeat that? The point -- if they ate a bagel or had a cup of coffee. That is what it boils down to --

MR. FINK: To reporting a gift under $50.00?

MS. RORAPAUGH: Yes.

THE CHAIR: I'm sorry. Ms. Coward, could you repeat that?

MS. COWARD: It seems it boils down to whether or not we want them to report whether they have a bagel or a cup of coffee at meetings, that is what it boils down to. It can be a small amount. And do we want them to have to report that at all?

THE CHAIR: The way this reads, if it's under $50.00, and that would be -- they would be required to report it.

MR. SCHERER: My view is up to $50.00 or some number. We have 50. I don't know that they need to report bagels.

MR. FINK: It doesn't make sense.

MR. SCHERER: Maybe we should define a gift a little differently and then we'll clear that up. By saying, bagels and plaques and coffee and incidentals are not considered gifts under this act but everything is.

MR. FINK: Would it be inappropriate to ask the attorney to draft a definition of gift?

MR. SCHERER: If that's the will of the Board, I think we can draft something in there that states that intent.

MR. TEITLER: Unless you want to have a de minimis figure. But then again, you're writing the valuation. Maybe that could be done if you have a de minimis -- -

MR. SCHERER: $50.00 limitation requires them to make a determination, so they have to do that anyway.

(Mr. Bakalar entered the room.)

MR. SCHERER: We ought to say, de minimis gifts do not need to be – de minimis items such as coffee, bagels, certificates, plaques; those are no value.

MR. WOLFE: Certificates, plaques.

MR. SCHERER: They don't report those now, not from reading the reporting forms, nobody is really reporting very much.

MS. RORAPAUGH: That is the problem. They're not reporting.

MR. SCHERER: I understand that. That is all been overlooked right now, but I think we could have our lawyer take a "cut," at this.

MS. COWARD: You're saying, right now they're not reporting those. Right now they're only required to report if it's over $100.00, so that would say the -- course they wouldn't put up -- certificate -- because it would likely be under $100.00 As it relates -- since the maximum is $50.00, I agree with Mr. Scherer, that I don't necessarily see the benefit of them reporting

something of such insignificant value, so I would be in support if we were to move that direction of Mr. Fink and Mr. Scherer of not requiring the reporting for something under $50.00.

THE CHAIR: So is the motion to strike Section C?

MR. FINK: Well, I have a question. I think there was something, the searchable database portion, if somebody reports a gift now and this is -- if somebody reports a gift now under State Statute of over $100.00; is there a searchable database?

MS. RORAPAUGH: No.

MR. FINK: Do we want to put something in here?

MR. WOLFE: No. I think we limited what the gift is and we have the issue -- in Broward County now nobody reports gifts anyway, doesn't matter if your staff or an agency or elected official or anything. I think we're doing the right thing. And of course our $50.00 might go lower.

MR. SCHERER: Can we get language in here that is -- I think we have the policy language, but it almost seems like when you get to this part B, we can say that, you know, we determine gifts up to $50.00 to be de minimis and therefore there's no reporting requirement that they receive coffee and bagels and such. I don't think we need to say that, but some way we could put that language in there and just say that is the absolute limit and if it's over that they can't take it. Forget about reporting it.

MR. TEITLER: Right. And you know, it goes without saying, that $50.00 is not coming from the lobbyists anyway, because that has already been eliminated. So you want to add that up to $50.00 -- are going to be viewed as de minimis and that there is no reporting requirement.

MR. SCHERER: Right. Put something like that in there, so the public knows what we're doing and all other gifts above that are prohibited.

THE CHAIR: Are we talking about adding that to B?

MR. FINK: Yes.

(Mr. Scherer left the room.)

MR. CHAIR: I think we had would have to come back and address that, because we had a motion and a second -- let's hold the floor for a minute. I have 11:01. Public Comment, time specific for 11:00. Any members of the public wishing to speak? Yes, ma'am. Come on up. If I could ask you to fill out a comment card when you're finished speaking. Introduce yourself for the record. If you'll sit in front of that microphone that would be great. And you have three minutes, ma'am. Welcome.

MS. WILSON: Good morning. I own a preschool in Victoria Park, that I've owned for 33 years and operated. And I have been having a big problem with garbage with the next door neighbor. Yesterday I called my City Commissioner's office to ask if they had a way of getting me through to the Health Department because there was no one answering the phone there. And the woman that answered said, well what's the issue, and I told her that the garbage is piling up, I had flies and we were seeing rats and it's at a preschool school. And she said, well, what preschool is it. I said, it's Small World School. She said, oh, hold on a minute. So she steps away from the phone, she comes back and she says, that woman has got a lot of complaints against her, I think you should make your complaint to DCF, and maybe this will be the one that takes it over the top and closes her down. I'm that woman. I own that preschool. I don't have a lot of complaints against me, and I don't appreciate that I'm paying that woman's wages and when people call a County Office they're being told how to file complaints against me and put me out of business. And I think that is an ethics problem. I don't think any Broward County employee should be free to use the time where she's being paid to work for Broward County to undermine a business operating in Broward County. And I would like to know if you can do something about it or if there is something that I have to do about it?

MR. BAKALAR: You started with the city. You said you said you called the city; was it the city or the County, just for clarification for us?

MS. WILSON: I called the City Code Compliance over the past year.

MR. BAKALAR: The person that responded to you; was it a County employee?

MS. WILSON: County employee in my County Commission Office.

THE CHAIR: Ma'am, Ms. Cepero will follow up with you and get your information to direct you to the appropriate authority.

MS. WILSON: Okay. Great. Thank you.

THE CHAIR: Thanks for being here.

MR. FINK: Mr. Chair, she did not identify herself on the record.

MS. WILSON: I'm sorry.

THE CHAIR: That's okay. If you would just state your name for the record and then complete a comment card.

MS. WILSON: My name is M. Elaine Wilson. I own the preschool, Small World School at 1500 NE 4th Place, Fort Lauderdale. And I live at 543 Victoria Park Road, also Victoria Park, Fort Lauderdale.

THE CHAIR: Thank you for being here. Thank you for completing that card. If you would identify yourself for the record and you have three minutes to address us.

MS. LYNN: Thank you. My name is Patti Lynn. I live in Tamarac. I'm here representing the Broward Coalition today. The ethics issue is very, very, important us. You were going over your section 119, A, B and C, and I certainly hope that B and C will save -- C still exists -- will also include all the others you included Section A, staff, spouse, et cetera, in B and C. I don't believe that you should eliminate reporting even under $50.00. I think you should include in Section B that official functions where Commissioner Shechter was talking about, he goes to a ribbon cutting; that is an official function of the city and the business provides food for the public and that is not considered a gift. I would never consider that a gift. And I don't think that plaques, certificates and awards should be considered gifts either. And I think that should be specified, because there are plaques that are

more than $50.00. We just bought some for the Women's Hall of Fame, and they cost substantially more than $50.00 each, so that should be included in there to say no. And we will be following along with your work. Please, please, believe that we're very, very, serious. It's not only the County Commissioners, it's city, it's everything. It's time that we have some "teeth," in this County. Thank you very much.

THE CHAIR: Thank you for being here. Any our members of the public that wish to address the Ethics Commission? None being heard we'll close the public comments section of the meeting and return to Continuation of Working draft.

When we went to public comment we were talking about amending Section B that we had already voted on and approved. So Mr. Teitler, to make sure we're consistent with procedure; do I need to do the same thing here? Do we call that vote?

MR. TEITLER: Right.

MR. FINK: I move we recall the vote on B.

THE CHAIR: Were you the maker of that motion?

MR. FINK: Yes.

THE CHAIR: Mr. Fink is recalling that motion and the floor is back open for discussion for the amendment language.

MR. FINK: It was the de minimis --

MR. TEITLER: Yeah. Gifts up to $50.00 in value are deemed to be de minimis.

MR. SHECHTER: Not reportable.

THE CHAIR: Let's get Mr. Teitler to read the amended language into the record, and then we will discuss that specifically.

MR. TEITLER: Gifts up to $50.00in value are deemed to be de minimis.

THE CHAIR: And that would be at the end of occurrence?

MR. TEITLER: Correct.

MR. FINK: Will the public understand de minimis?

THE CHAIR: Let's -- is there a motion to accept that language?

MR. SHECHTER: You can't stop with the word, "de minimis," because then what? (Inaudible.)

MR. TEITLER: If we eliminate C we're not going to have a reporting requirement anyway for those types of gifts.

MR. SHECHTER: No gifts over $50.00 period?

MR. TEITLER: Period.

MR. SHECHTER: And under 50 should be considered de minimis?

MR. TEITLER: Right. And you don't do anything.

THE CHAIR: Is there a motion on the floor to accept that amended language?

MR. WOLFE: So moved.

MS. COWARD: Second.

THE CHAIR: Any discussion?

MR. FINK: Again, I go back to, will the public understand de minimis or do we need to put it in English?

MR. TEITLER: I think it's a phrase of art. And it has a clear meaning as to what it is.

MR. FINK: That wasn't my question.

THE CHAIR: I don't know how to answer that question. Some of the public, yes, some of the public, no. I don't know. Is there a recommendation that that word be changed?

MR. TEITLER: I mean if they grab a dictionary --

MS. RORAPAUGH: It's a term -- it's a legal term. I again, think that these gifts -- we have compromised from a total gift ban, which was originally what we spoke about months and months and months ago that was recommended by Commissioner Gunzburger and some others, to a gift limitation that allows for public officials to attend certain functions and conduct certain activities. And now we're saying, you don't have to report those. It seems -- I know it seems draconian that you have to report that you received a plaque from the Rotary Club, but you know what, that is life, that is part of being an elected official. And what Mr. Scherer was describing with the federal officials, is absolutely true. Federal officials, your congressmen, your congresswoman, their staffs' do not attend events on someone else's "dime," they always pay for their tickets and they report every gift they received under $100.00 or $50.00. This is part of what working for the public involves, being a public official involves, and being a public servant involves. And it would discourage people from taking some of these gifts.

THE CHAIR: Ms. Rorapaugh, let me ask you a question. Last Friday -- Friday before last I attended an elected official breakfast at the JCC that had a few congressmen and congresswomen there, as well as senators and house representatives and municipal elected officials; are you saying that those federal officials that were there claimed that breakfast, are required to claim that breakfast as a gift?

MS. RORAPAUGH: If tickets were sold to that breakfast --

MR. CHAIR: No tickets were sold, but it has a value. We went there and had breakfast.

MS. RORAPAUGH: They would need to report that.

THE CHAIR: I got concerns to the practicality of that. I would have to go to the caterer or to the Executive Director of the JCC and ask to give me a receipt for the value of that bagel, or food, or juice or coffee. I just don't know how we do that.

MS. RORAPAUGH: I understand. But I also know that when these restrictions were placed on federal elected officials -- this was part of (inaudible) as I recall, organizations all over Washington DC figured out how they can feed somebody for under $10.00, whatever the restriction was. It was a big deal. But it was $25.00. We're talking $50.00. And if we're not going to have reporting, then I think we should bring that down to 25.

MR. FINK: But you're making two points.

THE CHAIR: One second, Mr. Fink.

MS. RORAPAUGH: I understand you guys think this is laborious, possibly if you write in language, unless these are received or consumed, whatever, in the conduct of regular business as an office holder, that is another way that you can walk around this. But if I'm being invited to an political fundraiser as an elected official and I get to go in free, I should have to report that. And that being invited to a political fundraiser, is not part of my duties as an elected official. But right now I can go into a lot of fundraisers for under $50.00. Shouldn't I be reporting that? Take it out of realm of the Rotary Club and put it into the realm of the reality which is politics, dinner with people, et cetera, et cetera; should that be reported?

MR. SHECHTER: If you're going to do that you have to define what you mean by gift. I went to a YMCA breakfast, it was a buffet breakfast, held in a church, and I went because I was a public official and the YMCA just came into Pembroke Pines, and so I was happy to go. To me it was a public appearance. If I have to report that breakfast -- that breakfast couldn't cost more than 6 bucks, but how do you do that? I mean it becomes almost a situation, I wouldn't go -- I don't want to have to sit down and figure out how much I spent, -- or how much that thing was worth. I just wouldn't go.

MS. RORAPAUGH: I understand. And outside the performance of your regular duties may be the language. I know I'm not going prevail on this. I'm just saying --

THE CHAIR: It's good debate. Regardless of how you prevail, I think we need to hear it. What we're back to -- what is reasonable and what is manageable.

MR. FINK: I'll defer for the moment.

MS. COWARD: I will defer for the moment as well.

MR. WOLFE: Let me give you an example. I don't participate in Broward Days any more. One, our office doesn't have the budget, and I'm not going to take 150 -- what do they want 200 bucks now out of my pocket for a social events, and I don't think it's necessary for what I do. However, I notice this year as they jacked up the money, they also are charging for individual events. I think if you go to one Broward Days reception they want 65 bucks from you, or something like that. So I think in context of what we're trying to write, elected officials would have the opportunity to buy out of his office account, Broward membership or not attend that event, because I don't think Broward Days -- even though you could construct it as part of my duties, I think that is a judgment call the official is going to have to make, or the staff, is it's either paid for or I'm not going to that individual reception. Because the market value is over that $50.00 limit, but that is a decision they're going to have to make. I just don't think we want to get down to -- I just don't believe we have to report plaques and dinners and lunches that are office related. I know the concern. I think we're doing great strides by knocking out the lobbyists and vendors in doing business. There is a lot of people upset about that.

MR. BAKALAR: I'm not quite sure you would lose on this issue, Ms. Rorapaugh. I think we need to come up with some better language because I think we're all thinking the same thing here, not to -- what is reasonable, so yeah, I don't think you would lose on this. (Inaudible.)

MR. FINK: I'm just a firm believer that you don't pass on manageable or unenforceable laws. And frankly, I'm not going to enforce a law for $25.00 or a $50.00 item, because the cost of enforcing that, far exceeds the $25.00 gift or the $50.00 breakfast or the $30.00 plaque. It just -- it doesn't make any sense to me. There are certain things that are rationale and

reasonable. And I understand we can still debate the 25 versus 50, but you can't make people report -- it's just not going to happen. It's not something that human nature will allow to occur and I don't believe in enforcing or passing unenforceable or unreasonable --

THE CHAIR: Mr. Teitler, if you will read that section in its entirety with the amended language and I'll call the question.

MR. TEITLER: "County Commissioners may accept gifts from other sources, where not otherwise inconsistent with the provisions of Florida Statues Chapter 112, part 3, up to a maximum value of $50.00 per occurrence. Gifts up to $50.00 in value are deemed to be de minimis."

THE CHAIR: All in favor of the question signify by saying, aye.

MR. FINK: Point of information.

THE CHAIR: Opposed? Same sign. We called the question. I think we beat this enough.

MS. RORAPAUGH: Aye.

MR. BAKALAR: Aye.

THE CHAIR: The motion passes. C.

MR. FINK: I move that we delete C.

THE CHAIR: There's a motion on the floor to delete C.

MS. COWARD: Second.

MR. BAKALAR: Motion to delete C? Let me reiterate that I think we should be drawing a distinction somehow between what is a gift and what is the course of business. And that would actually solve both my nay vote on the -- and what should be reported in C. So I'll just -- throwing that out there. I think it's just language change that was all this. And if people would agree, I would ask Rob to maybe work on a little language clarification --

THE CHAIR: Well, with B being passed, we would have to recall that motion again to entertain that.

MR. FINK: I think what Howard suggested, if I might, Mr. Chair, it doesn't negate C being removed. I think he is just suggesting that the word, "gifts," as defined in B, have Rob draft some kind of a definition of gifts that could be inserted in A or B.

MR. TEITLER: Well, it's in detail defined in Chapter 112, and there is no need to “recreate the wheel." There is a very detailed definition that is in your notebook that defines what gifts are and what they are not.

THE CHAIR: Mr. Fink, are you amending your motion to remove C?

MR. FINK: No. I think Howard's argument really didn't negate the motion. He is just saying his concern is the word, "gift," if I understood you, Howard, right?

MR. BAKALAR: I think that we're -- I think we need the discussion and I'm a sorry --

MR. TEITLER: Is the concern the value like the $2.00 bagel?

MR. BAKALAR: Like what Commissioner Shechter was talking about.

MR. TEITLER: Well, you could say here, hypothetically, any gift received by County Commissioners provided in paragraph B above over a value of $10.00, which means it would be between $10.00 and $50.00, would have to be reported. If the concern is the value and they’re being -- not wanting to report the $2.00 bagel.

THE CHAIR: There is a motion on the floor to remove C. That was your motion. So if we're now talking about amending C with different language then unless I'm incorrect, I think I need Mr. Fink to amend his motion. Was that motion not to remove C?

MR. FINK: Uh-huh.

MR. TEITLER: Well the existing motion was to -- there was a motion to remove C.

MR. FINK: And it was seconded.

THE CHAIR: So are you willing to amend that motion to change -- withdraw that motion to remove it and we will accept a motion to amend C?

MR. FINK: No.

MR. WOLFE: Point of information, Mr. Chair. Again, Section 112, as counsel noted, has a full two or three pages full of gift definitions, which satisfies my definition.

THE CHAIR: So there is a motion on the floor to strike section C. There is a second. Any further discussion on the motion? I'll call the question. All of favor of striking C in its entirety, signify by saying aye. Any opposed, same sign.

MS. RORAPAUGH: Aye.

MR. BAKALAR: Aye.

THE CHAIR: The motion passes. Before we move on to Section 2, in the interest of time, I want to spend some time talking about our future calendar. We still need responses from folks. I will an ask Ms. Cepero to address that. We need to set additional meetings so you can see where this is going, to get this done. And at the same time I would ask that if we can't come up with at least two more meetings then I would suggest that we change our time, start earlier and later; whatever is necessary to ensure that by early February or mid February we get something to the County Commission as requested last week.

MS. CEPERO: I'm still -- I only heard from six folks.

MR. FINK: That's the majority.

MS. CEPERO: Right. But not everybody has the same availability of dates, so we don't have quorums necessarily. It looks like, from the six that

I have heard from -- there is a couple of folks here that I have not heard from, so I will get with you after the meeting. But it looks like we will be able to meet with those six having the availability of making quorum on Thursday's or Friday's from now until the end of February, except for February 11. So it would be January 28, February 4, February 18, February 25; those are the Thursday's. And then the Friday's would be January 29, February 5, February 12, February 19 and February 26. And the times were morning afternoon or evening.

MR. WOLFE: Evening is fine.

MS. RORAPAUGH: Evening is better for a lot of us.

MR. WOLFE: Mr. Chair, one thing for sure, I think our scheduled meeting, I think --

MS. CEPERO: February 10.

MR. WOLFE: I think starting earlier, like 8 o'clock -- I mean, we're ruining our mornings already -- you know, if we start right in the morning we can get a lot of stuff done.

THE CHAIR: We're trying to get one in before that if possible.

MR. WOLFE: If we do some more, let's really entertain doing something at night for some of us.

THE CHAIR: Do we have a majority that can do something before February 4th?

MS. CEPERO: February 4th and January 28th. Next week. Actually next week or the following week. We have Thursday's and Friday.

THE CHAIR: The majority can confirm the 28th.

MR. WOLFE: I can do the 28th at night.

THE CHAIR: Any opposition to the 28th at night? Can I define night at 5:00 p.m. We will set it from 5:00 to 8:30. January 28th 5:00 to 8:30. We can't

provide dinner because it would require disclosure. Can I provide dinner for the committee?

MS. CEPERO: I don't know the answer to that.

THE CHAIR: There may be some food on the table for you to eat when you get here if you're hungry.

MS. RORAPAUGH: This is the 27th, or the 28th.

MS. CEPERO: Thursday the 28th.

THE CHAIR: This room?

MR. FINK: I think the Broward Delegation should be part of the --

THE CHAIR: Ms. Cepero will confirm the location, but right now we have a definitive, January 28th, 5:00 to 8:30, location to be determined. That brings us to a February meeting. What was the dates that were available before?

MS. CEPERO: February 4th or 5th. It's a Thursday or a Friday.

THE CHAIR: Any preference? Fourth? Evening again? Any opposition.

MS. COWARD: I won't be able to attend. I'll be in Orlando.

THE CHAIR: Do you have a quorum with Ms. Coward's absence?

THE CHAIR: February 4th, 5:00 to 8:30, location to be determined.

MS. CEPERO: Hopefully we will be able to get the room.

THE CHAIR: That brings us to the 10th where it would be my goal to vote on the final draft and send it to the County Commission, which would give them a couple of weeks to mull it over and discuss it prior to having to go on their first agenda.

MS. COWARD: Want to start earlier or later?

8:00?

THE CHAIR: I would like to stay morning if we could on that day. 7:30 is good. 8 o'clock good? 8 o'clock on the 10th. Are there any concerns with the desire to take a final vote on that day?

MR. FINK: Yes. I think prudence suggests to get one more meeting, because the way this has been going, just three more meetings is not going to get us -- I think you should of a back up just in case.

THE CHAIR: We'll stay with the goal to complete on the 10th, but we will set a meeting after the 10th in case we fall short of the goal. Ms. Cepero, what date after the 10th?

MS. CEPERO: The 12th, which is Friday. Other than that it would be the next week, which would be the 18th.

THE CHAIR: The 12th in the morning, we will schedule a just in case meeting.

MR. BAKALAR: I can't make it.

THE CHAIR: Okay. We don't have a quorum.

MR. BAKALAR: I can do afternoon.

MR. FINK: But you said you still have not heard from some people? Monica?

MS. CEPERO: That's correct.

MR. WOLFE: Let's stick with the Chair's agenda and cross our fingers that we get done, if we don't then we bring it up and reschedule.

THE CHAIR: Ms. Cepero, if you could pursue those that you haven't heard from and if the 12th becomes available due to the response from those other members, let's set that.

MR. FINK: What time?

THE CHAIR: 8:00 a.m. to 11:30.

MS. CEPERO: The 12th.

THE CHAIR: Let's do the same thing if it's an option. The 10th -- the 12th Ms. Cepero is going to reach out to Board members that have not responded and see if we could get a quorum for that day. That would be 8:00 a.m. to 11:30 as well. We're almost there folks. Hang in there. We need approval -- no, we don't.

MS. CEPERO: Not yet.

THE CHAIR: Any other business? It is 11:30. Motion to adjourn.

MR. WOLFE: So moved.

MR. BAKALAR: Second.

THE CHAIR: Motion by Mr. Wolfe seconded by Mr. Bakalar. All in favor signify by saying, aye. Opposed, same sign. Thank you very much folks. We look forward to seeing you on the 28th, 5:00 p.m. Location to be determined.

(The meeting adjourned at 11:28 a.m.)

BROWARD COUNTY ETHICS COMMISSION

February 4, 2010

MEMBERS PRESENT: City Commissioner Neal de Jesus, Cooper City - Chair
City Commissioner Carl Shechter, City of Pembroke Pines - Vice Chair
Howard Bakalar
Washington Collado
KennethFink
Robin Rorapaugh
William Scherer
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Broward County Commissioner Lois Wexler
Brad Seff, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 5:05 p.m. on February 4, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

COMMISSIONER DE JESUS: The time is 5:05. We have a quorum and I'm going to call the meeting of the Broward County Ethics Commission to order. May I have roll call please?

(Roll call was taken.)

We have moved public comment to time certain at 5:10 today. My thought was after a comment from the public, that rather than let them sit around until 8:00 at night for a three minute presentation, we would allow them the opportunity to speak and then let them get home with their families, so with that being said, it's almost 5:10. I don't

want to get into any other business prior to calling them up, only to cut it off in two minutes, but I'd also like to thank the county administration for providing dinner. You all are welcome to partake, if you'd like. Board members, we will not be breaking officially, so if you are hungry, go grab it and we will eat and work at the same time.

With that being said, although it's a few minutes shy, I know there are some members of the public that are here, that are wishing to speak. I will give them the opportunity to speak before us and then recognize anyone else from the public who comes in.

If there are any other members of the public who haven't filled out a public speaking form, please do so and I will be glad to recognize you and allow you three minutes to speak with the Ethics Commission.

Ms. Greenbar, would you like to come up to the microphone, please? Welcome.

MS. GREENBAR: Thank you.

I'm Charlotte Greenbar, the President of the Broward Coalition, and I'm here because I got this today on the internet, and I think it interesting because it's the Chair of the Florida Commission on Ethics asking the legislature for much stronger an ability to do what they have to do. And it really does coincide with the inspector general issue that we're talking about, that you are talking about, and that the Broward Delegation was talking about. I'm glad to see they got on with it, because the time is here and I'm glad to see you are getting on with it, because the time is here. I'm going to leave a copy for the record, but I like the way she started it. If a sports car barreling down the interstate at 120 miles an hour passes a Florida highway patrol officer, we would expect the officer to flick the lights on, stop the speeder, give a ticket, make the road safer, but

wouldn't the public be angry if the legislature passed a law that forced the officer to stay parked by the side of the road, patiently waiting for a concerned citizen to pull up, sign a sworn statement describing the speeders actions and ask the officer to please look into it. Well, that is exactly what you are going to do if you require the inspector general to wait for a complaint before going out and looking at whatever the inspector general wants to go out and look at. So what the Chair is asking for is what we're asking you to do, because the voters will approve it. Maybe the County Commissioners are a little reluctant. I will tell you the voters are not at all reluctant. We represent over 200 associations, probably 200,000 people, and they are not at all reluctant to have these stringent ethics laws passed, to have an inspector general with teeth that is completely, completely independent. They want the ability to investigate complaints without a citizen complaint in two circumstances. If certain officers, Governor, CFO, etc., refer the case or if reliable information has been widely and publicly disseminated. That is really important not to have to wait. They want -- give the commission the ability to investigate complaints without a citizen complaint in two circumstances. If certain officials, the Governor, the CFO, Florida department of law enforcement refer the case, or if reliable information has been widely and publicly disseminated. Okay? The existence of the investigation would remain confidential until after the Commission votes on probable cause. Now that is the Commission up there. The inspector general doesn't have to wait, shouldn't have to wait for anything, because the inspector general is a little different animal down here. The inspector general should not have to wait for a citizen complaint. They can get complaints from anybody, of course, but if they know something is going on, if they see it, if they hear about it, they should be able to

investigate it. They want increased fines. The maximum number is now $10,000. They want increase in the maximum number fine up to $100,000. So we're talking about the Florida Commission on Ethics asking for themselves -- themselves asking, for increased ability to carry out their mission. And they want voting conflicts changed. Currently if a vote on a specific measure would cause a local official, his family or employer to suffer a gain or loss, the official has to abstain, but the official is permitted to influence the process and lobby other officials without disclosing his or her conflict until the moment of the vote. The Commission has suggested that an official with a conflict should not be able to participate in the process in any way, and staff should be prohibited from acting on his or her behalf was well. We couldn't agree more. We're urging you, telling you that the folks are ready, willing and able to vote for the most stringent ethics laws that we can get or an inspector general that is independent and the time is now, so we ask, as I ask the Broward Delegation, please get on with it.

Thank you.

COMMISSIONER DE JESUS: Thank you.

Do any Commission members have any questions?

MR. BAKALAR: It's not a question. It's a comment.

You bring up a good point of the police officer sitting there when someone goes by them at 110 miles per hour versus a police officer pulling someone over because they suspect they may speed in the future. I think we have gotten to the place at the last meeting where we were discussing what a reasonable suspicion was. I think that is where we're at, and you have illustrated that beautifully. It's not pulling someone over

because you think they may speed in the future. You have a reasonable -- something has caused that. I believe there really wasn't much debate about that one last time.

MS. GREENBAR: If you have to wait for a complaint, that is a different thing. Having probable cause -- we would expect, not hope, expect that the IG would have enough common sense to know how to do this.

MR. BAKALAR: I think we were getting to the detail of that.

COMMISSIONER DE JESUS: Let's not get into the IG bill again right now.

Mr. Fink.

MR. FINK: How would you define widely and publicly disseminated?

MS. GREENBAR: Widely and publicly, as anybody would be able to see it.

MR. FINK: So if somebody starts a blog on the internet, whether it's got any basis or not --

MS. GREENBAR: That would be up to the IG to decide if there is any basis. That is the kind of person that we're looking for, who can discern.

MR. FINK: I just wanted to make sure that I understood, in today's day and age --

MS. GREENBAR: There is a lot of widely and publicly disseminated stuff in a lot of places in today's day and age.

MR. FINK: Which we have found out to be urban legends that are not true.

MS. GREENBAR: Well, this county has got FBI, FEMA and IRS agents blanketing us. I think there is enough probable cause for a lot of things in this county, for an IG to be busy for quite a while.

COMMISSIONER DE JESUS: Thank you again for your time, Ms. Greenbar. Ms. Lynn, Patti Lynn.

MS. LYNN: That is me.

COMMISSIONER DE JESUS: Good evening and thanks for being here.

MS. LYNN: Thank you for having us.

COMMISSIONER DE JESUS: You have three minutes to address us and I will ask any Commission members afterwards if they have any questions for you.

MS. LYNN: Thank you.

I'm also a board member of the Broward coalition. I'm here both in my capacity as a Broward Coalition board member and as a citizen who has filed a complaint previously with the state attorney's office that was found to be unfounded. Let's go back to the inspector general.

The Broward Delegation selection committee for an inspector general is something that I think is something you all should adopt. They had a list of people who they thought should be on the selection committee, and they are all political people. They all have had campaigns run by one person. It's a very, very close knit community that is going to be selecting the inspector general. I think that takes us right back to where we are right now, which is everybody knows everybody and everybody is best friends and nobody is going to find fault with their friend. The selection committee needs to be non-political, non-elected, not someone who runs political campaigns, nor does someone who runs political campaigns -- they shouldn't have somebody on the inspector general selection committee who has been instrumental with political people. I'm not naming names, but if you look at the selection committee that the -- how they

decided that Broward Delegation decided it should be comprised, the majority of the people there have had campaigns run by one campaign person. I don't think that is wise. I just don't think that is wise. Probable cause -- the inspector general should be able to investigate not only as this article was saying today, criminal behavior and pass it on to the state attorney for action, but waste and mismanagement. Things go on and money is wasted and spent that if someone looks at it with a fresh set of eyes and says, hey, look, this is not the way to be doing things, let's do it this way and see if we can save some money.

The third thing that interested me is the funding source for the office of inspector general. The Broward legislative delegation was putting pennies on the table, and it's not going to work with pennies on the table. We have some serious issues. I mean, I live in Tamarac. We have the former Mayor who has been indicted. There is bribery involved. That is one developer and one city, and the only reason that came up is because the FBI was there on another case. They are crawling all over us because we have corruption here. Let's not water down an inspector general. Let's not make it a political appointment. Let's not make those who select them part of the political process. It won't work if that happens.

Thank you, very much.

COMMISSIONER DE JESUS: Do any members have any questions?

Ms. Rorapaugh.

MS. RORAPAUGH: Patti, as I recall the delegation, and I think the County Commission was asking for the head of the Circuit Court here, the Public Defender's

office, the State Attorney, and I think the US Attorney as being the selection committee.

How would you change that selection committee?

MS. LYNN: I don't think --

MS. RORAPAUGH: Take the personalities out of it and just --

MS. LYNN: Take everybody out of it. We shouldn't have a person from Broward County as the inspector general.

MS. RORAPAUGH: No, no. I mean the selection committee.

MS. LYNN: The selection committee should not be -- there are honest people throughout the world, throughout the state. There are think tanks. There are people who are known for their honesty. There are honest people.

MR. FINK: If you read the Broward Delegation, they included people you named. Over above that, they had the Mayor of Broward County, the Chair of the Broward legislative delegation and the President of the Broward County police chiefs association, and I think that is what she is referring to.

MS. LYNN: They are all political things. You know they are all political things, and you can't put politics in this, because people will be overlooked. I can't say anything bad about my friend, and we don't go that way.

COMMISSIONER DE JESUS: Ms. Lynn, which of those, for those of us who may be politically naive, which of those that they are recommending is a campaign manager?

MS. LYNN: None of those are a campaign manager, but one campaign manager has run at least three of those campaigns for the people who got into office, so that puts

a little -- you know, they know each other. They know, they have a common denominator, and that is not the way it should be.

Thank you, very much.

COMMISSIONER DE JESUS: Thank you. Any other questions? Thank you for your time.

Roy Rogers. Mr. Rogers, thank you for joining us.

MR. ROGERS: Thank you, Mr. Chairman. Greetings, everybody. I don't think I even need to sit down. Here it is.

I have been where you are. I have been charged with a responsibility, seeking public input, and in this case, as it was in my case, it's a tough task, so my purpose in being here is singular, and that is to encourage you in what you are doing. I don't have to convince you that this is the most important issue that has engaged the whole community, because you know that. The event we had at the Tower Club this morning totally demonstrated the fact that this is the number one issue in the county. You are charged with something that is hugely important in regard to the journey that takes us from where we are to where we really need to be, and I will end it with this. Because of your deliberations and what you are going to bring forward, even in the forum it's in now, it gives folks out there -- and I'm not representing any organization and I'm not coming with specific suggestions, but because you are doing what you are doing in the manner you are doing it, it gives hope. I think we have been in a (inaudible) out there of just numbness in terms of getting along with stuff that we don't like, but didn't see a clear path as to how we connect and do something to prevent further corruption, so I will bring it to a close.

Thanks for what you are doing, and I would have loved to have heard that when I was doing the same thing that you are, just the word of encouragement and thank you.

COMMISSIONER DE JESUS: Thank you. We appreciate that.

Any questions for Mr. Rogers?

Thank you, sir.

MR. COLLADO: Actually, I do have a question.

COMMISSIONER DE JESUS: Roy, would you mind taking a question from Mr. Collado, please?

MR. COLLADO: Mr. Rogers, in listening to the skepticism behind who do we choose to select the IG, what would be your thought in that selection process, in a way that it seems non-biased to Broward County voters?

MR. ROGERS: My response is probably not going to carry any weight or be possible to achieve, but I know that -- the story is if you are on a campaign practice committee in 2000, I was sort out by a group that had formed and wanted to find somebody that was objective, and I took on the responsibility, and I know in my heart I did the best I could with that and could honestly say I was objective in what I was doing. My many identities included being a developer, an environmentalist, and here's the thing. When you begin to say you can't have that person because of this; you can't have that person because of that, you're really not going to catch it. It's a tumbling domino effect. I would offer no restrictions as to who you choose. Just choose wisely, so you get the right independence you are seeking. For me as a developer, I would walk in the shoes of a developer as an flaming environmentalist. If you put me into a category, I never would have been able to do what I did do, and I'm very proud of what I

was able to do in those two combined identities, so I'm against prejudicing the process by excluding, if you are black, white, you are a developer, you are an environmentalist, even Patti I disagree, if you don't live in -- you are forbidden if you live in Broward County. No, I think you're better served by not putting a lid on what you have defined as the appropriate person, but rather keep in mind what you are trying to do, to find somebody that is independent wherever that person might be, and then support them and make the process work. The beauty is going to be having that IG as a nexus, to make sure that the State Attorney's office does what they need to do, and I have hope and I'm very encouraged by what Mike Satz and the other Michael in Palm Beach have done, and with Catherine Rendle (phonetic spelling) Fernandez is doing in Miami. I think that the officers, once they have the input from the IG, are going to properly process the material in front of them, and I'm talking too long. The answer is, don't departmentalize and miss the target.

COMMISSIONER DE JESUS: Thank you, sir. I appreciate your time.

We will continue with the agenda. Are there any other members of the public here, wishing to speak? None being heard, we will close public testimony and move on to continuation of working draft.

What I want to do this evening, folks, and thank you for confirming the reminder of the meeting dates. I think that gives us some cushion, should we fall behind. I still want to reserve the right to say we may have to meet more, if for some reason we run into some stumbling blocks and don't accomplish as much as I'm hopeful that we will accomplish, as we move through this evenings agenda. We will start where we left off this evening, at number 2, outside/concurrent employment, but what I had like to do is,

we will work this until 8:00 o'clock time certain, and at 8:00 o'clock -- you know what, why don't I do this, because I know that there are some members that might have to leave early. Rather than doing that, before we start on continuation of working draft, what I had like to do is, we had some dialogue going back and forth, what bill do we insert for the inspector general, what language stays, what language goes, is it too voluminous, is it going to work? Is that the right format for the code of ordinances, etc., etc.? Our counsel has sent an e-mail to all of us that made a recommendation that I believe is reasonable and certainly worth discussing, so what I had like to do at this time, again in the interest of not all members being here later, is turn the floor over to Mr. Teitler, let him take time to express his concerns on why it might be easier for us to still accomplish what we're trying to accomplish and allow him the opportunity to work the office of inspector general, which I think we have all clearly agreed upon, needs to be in there, into our code of ordinances, and then we will decide which way to go from there Mr. Teitler.

MR. TEITLER: Thank you, Neal.

As you know, the local bill is now in route to Tallahassee, so that was approved by the local delegation. Contemporaneous with that, the county commission directed the county attorney's office to draft an amendment to Broward County charter, to create an inspector general position. That position would be as broad as the one in the local bill right now. That would include, likely all municipalities in the county and Constitutional officers. In preparation for drafting that amendment to the charter, I put together an outline that I e-mailed out yesterday, and I have copies up front here, that incorporate all of the headings of the local bill, the Palm Beach County ordinance and

the Miami Dade County ordinance, and the important aspects of each. Additions need to be made to this document, and I can certainly make that at your direction, but it makes the whole process a lot more manageable in terms of the little time we have left and it does cover all the important headings and topics that we need to cover for purposes of our code of ethics, keeping in mind that whatever we prepare in terms of inspector general, has to be geared for purposes of this document, to the County Commission. It wouldn't be as broad as what is out there for the local bill or as broad as what is probably going to be in the charter amendment. If you look at this document, basically the only issues at this point that need to be resolved by this Commission would be how they want the inspector general to commence the investigation, whether it would be by complaint or not by complaint, and again, the other important issues that need to be discussed unique to this Commission would be the qualifications of the inspector general and the selection committee for the inspector general. Once this commission decides those issues, then this could be pretty easy formatted to insert into the code of ethics.

COMMISSIONER DE JESUS: Members?

Ms. Rorapaugh.

MS. RORAPAUGH: Just as a report on the local bill, basically the sponsor of the bill has said she is open for change, I think up to May 11 is her deadline, so if we adopt an inspector general and the County Commission adopts her language and then they can addendum it to make it broader, the local bill may come down. They are treating it more as a failsafe, if we're not successful and if the County Commission is not

successful, so that language that is currently there is more place holder language than what would actually come out from the local bill.

COMMISSIONER DE JESUS: Thank you. Mr. Wolfe.

MR. WOLFE: I understand Bob's point, and I think I agree with it, but I just want it make sure we don't get to appoint where we are doing charter change. I know the county commission can accept a charter change on their own with a super majority vote, but we wouldn't get the position, I guess, where we've two or three competing ballot measures on the ballot; could we?

MR. TEITLER: Well, you could.

MR. WOLFE: That is the only caution I guess that came up in my mind. I know what you want to do here, and I agree with it.

MR. TEITLER: While this one will have to be uniquely tailored to the County Commission, the others aren't. You're going to have different versions.

MR. WOLFE: If we did have competing versions, and I'm not an attorney so I'm asking this of the folks who are attorneys here, wouldn't the state -- if the state delegation for a local bill, that would trump the other ones, wouldn't that?

MR. TEITLER: Yes.

MR. WOLFE: My understanding of the law --

MR. SCHERER: Yes, that is my understanding too. I think it's inevitable, and I think it's kind of interesting, as I understand, the county request for a referendum is to apply it to everybody, constitutional officers, cities and everybody who takes money from the county, and I don't know how the voters are going to feel about that, but the voters in the cities may not want that and they might be more inclined to pass ours. I

don't think we need to get into a dueling situation. I mean, we have gone forever without having one, and now we're going to have two or three options, which is kind of interesting. But it seems to me that ours is going to have -- I think the County Commission wants to have it complaint oriented, which I don't know if that is going to be the feeling of this Board, to have it complaint oriented because I think the Ethics Commission and all the measures in Tallahassee are to get away from complaint oriented into probable cause findings, if the inspector general has them, so we might have a situation where we have it more open than the bill that the county, the referendum that the county puts forward. I think that is interesting. I don't really want to confuse the voters at all, with our bill, to the extent that ours can be as close to the county's as possible, that would be ideal.

MR. WOLFE: I agree.

COMMISSIONER DE JESUS: I have a point of clarification and a question for your Mr. Teitler.

Bob, you brought up a point that several Broward County residents have questioned me on, and that is the fact that the County Commission can change an ordinance with a super majority vote, six or more votes. Is there any provision that we could put in this code of ethics that we're charged with writing, that would prohibit them from --

MR. TEITLER: The code of ethics that we have drafting?

COMMISSIONER DE JESUS: Yes.

MR. TEITLER: I believe you could insert that in there. I will look into that, but I think you could.

MR. TEITLER: I think you could.

COMMISSIONER DE JESUS: The concern has been addressed to me -- you guys are talking about this local bill, and if they don't like that portion of the local bill, the voters will likely, from what we're hearing, will likely approve that, so it goes to the voters to approve the code of ethics and then the County Commission, through a charter change, through a super majority says, we're going to take the local bill portion out of that -- I'm sorry, the inspector general portion out of that --

MS. RORAPAUGH: Right, after the election.

COMMISSIONER DE JESUS: -- and my question is, can we put a provision in there that doesn't allow that.

Mr. Scherer and then Ms. Rorapaugh.

MR. SCHERER: What I understand the county is doing, is asking for a referendum of the charter amendment, so they wouldn't have the power to change the charter amendment, without amending --

MR. TEITLER: He is talking about our ethics code.

MR. SCHERER: I understand that. Well, if our ethics code, with respect to inspector general mirrors what the County Commission is going to put out, except the County Commission is going to be broader and in all other parts, it's the same --

MR. TEITLER: The funding will be different. The scope will be different, but all other aspects --

MR. SCHERER: The substantive aspects will be the same, then it becomes a part of the charter, which they can't change.

COMMISSIONER DE JESUS: That puts us right back to the timing issue of both. Our deadline is rapidly approaching. They may not have a bill for us to look at, and what we look at may not be what they pass because of the concurrency issue. Ms. Rorapaugh.

MS. RORAPAUGH: Mr. Teitler, you need to answer this.

Is it possible in what we put forward to the County Commission, we instruct certain portions of it to be treated as a charter change, for the purposes of that November question?

MR. TEITLER: No. That would have to go before the voters.

MS. RORAPAUGH: I know, but this make up, can we ask that specific pieces of this go before the voters as a charter change?

MR. TEITLER: I think the way the Ethics Commission's task -- the way the charter provision for this Commission was drafted, it goes to them for up or down or it goes to the voters. It can't go piecemeal.

MS. RORAPAUGH: Can we put a legal provision in it that institutional parts of it or the whole thing go before the voter as a charter change, with their endorsement?

MR. TEITLER: Well, I think that would be contrary to the charter, because it gives them the discretion to vote it up or down.

COMMISSIONER DE JESUS: Do you want to issue us an official opinion on that?

MR. TEITLER: Sure.

COMMISSIONER DE JESUS: Is that okay with you? I don't know how we're going to settle that here.

MR. COLLADO: This is a question, because I'm not of the understanding -- well, I did read this carefully. If this passes the way it is or amended, however is the final product, can municipalities waive either the provisions in the IG?

MR. TEITLER: Our document wouldn't apply to the municipalities.

MR. COLLADO: It would not?

MR. TEITLER: No. Our document would apply only to the County Commission. That is why, the model that you have got from the local bill, is broader than we can do.

COMMISSIONER DE JESUS: However, the County Commission has stated they will move for a referendum, a charter change, so that this does include all the municipalities, but that referendum would have to go to the voters and the voters would have to decide whether that applies.

MR. TEITLER: And that would be a separate document, but if this Commission can make decisions as to how they want the inspector general's investigation driven and the makeup of the selection committee, then I can prepare something that this Commission can certainly have them look at by the beginning of next week.

COMMISSIONER DE JESUS: All right. Let's get back to the topic of can we work with Rob's insertion or is there some other recommendation? It seems cleaner and it seems to make sense, and if we can kind of settle and move on. I think that will get us --

MR. SCHERER: I just don't think the County Commission is intending to do this, but we would not want them to be able to water down what we're proposing by having their own competing, dueling referendum. We want to prevent that. I don't think they

are trying to do that but we don't want that to happen, particularly on the issue of how a complaint is generated or how an investigation is generated. That is a pretty big issue.

COMMISSIONER DE JESUS: Several meetings ago I made a recommendation that we move forward with this draft, code of ethics, in a manner as if there is no other bills that exist, and how we want that wording, and then if timing permits and there is something out there, hard and in fact for us to look at, we're willing to say yes, we're willing to swap this with that before our deadline, and again it's been opined that once we turn this over, we're done. But I just think to move forward, we need to go in a direction that is a little simpler, a little clearer, and I think Mr. Teitler has made a good resolution.

MR. SCHERER: How about thou shall not water down anything we give you.

COMMISSIONER DE JESUS: I don't know that we need, again, I don't think we need a motion, but if there is a consensus that we will accept Mr. Teitler's recommendation and insert that language in the bill when we get to that, remember, it's still fair game. We're still going to have input. Does anybody oppose?

Yes, sir, Mr. Fink.

MR. FINK: Are you saying, take this, that document as it is right now or do we go and make changes?

COMMISSIONER DE JESUS: When we get to IG, we're going to make recommendations for any changes that anybody has. That is the last section in our document.

MR. FINK: When we turn this in, we're done?

COMMISSIONER DE JESUS: That has been the opinion of the legal department. I believe the charter question reads different, but that is the opinion of counsel.

MR. BAKALAR: The target that the Chair gave was February 12, to finish it and give to the Commissioners, but our deadline is March 2.

MR. FINK: But if I understood it from two meetings ago, if they decide to call us back because they want us to address something, they can't do that or they --

MR. TEITLER: Not after March 2. For clarification purposes, but not to change it.

MR. BAKALAR: We will still exist until it's adopted as an ordinance or it's adopted by the voters.

MS. CEPERO: I'd like to clarify something.

The proposed code of ordinances has to be in front of the County Commission by March 2, by their March 2 meeting, which means the agenda is printed the week before. So in order for timing wise, for the document to go before the County Commission, it needs to be completed by February 24, at the very latest. That is when we have to print the agenda, county staff prepares and distributes to the County Commission, their agenda.

MR. FINK: When you say agenda, my question is, does that include the back up?

MS. CEPERO: Yes, everything.

COMMISSIONER DE JESUS: We're still going to shoot for the 12 as we agreed. If for some reason we need to schedule another meeting or two in between, to meet our deadline, we will do so, but right now we're shooting for a final product on the 12.

A point of clarification. I just saw the officer move and two members asked me prior, why do we have the police here, we're not expecting any problems. I have been told by staff that after hours, it's routine for police presence. That is why. Scott, make sure you got that. We're not expecting you to get out of control.

MS. CEPERO: One more point.

If you guys are still inclined to provide the County Commission with a draft in advance, for them to have an opportunity to comment or have some feedback, the last County Commission meeting in February is the 23, which means you will have it printed out for them on the 17, so to the extent you guys finish on the 12, we could turn something around and get it to them for their last meeting.

COMMISSIONER DE JESUS: And that was the intent, but I would recommend to them they get copies of every draft, at each meeting, and they can follow us as we go.

MS. CEPERO: They do. I was just following up on --

COMMISSIONER DE JESUS: I know they do, because they are calling me.

MR. SCHERER: We ought to invite them to weigh in as we're doing this, if they have suggestions. I mean after --

COMMISSIONER DE JESUS: I don't think --

MR. SCHERER: -- no, if they think we're being impractical because of this or that, then we don't see that they do, I'd like to hear of it.

COMMISSIONER DE JESUS: Are there any members not hearing from Commissioners?

MS. RORAPAUGH: No one is talking to me.

COMMISSIONER DE JESUS: How about if we do this. Could you draft a letter for me, to the County Commission, letting them know that as we continue, we would still like to receive any input they may have and we will officially go on record of extending another invitation. I don't think they are bashful, but if they need another invitation, we will be glad to give it to them, and I'm receptive to taking their input.

MR. SCHERER: I'm talking nuts and bolts type of things. In writing if they have positions, we ought to get it back, rather than the negative stuff. We ought to hear from them; don't you think?

COMMISSIONER DE JESUS: So I believe we have a consensus we will move forward with the recommendation of Mr. Teitler. There is no opposition being heard.

Let's go back to our continuation of working draft and again, we're starting at, outside/concurrent employment. I believe that is where we left off. There has been -- if we can just stay there one second, look up at B. I see there has been a tweak of what there was last time, and we already voted on that section. Again, we reserve the right to go back and address any section that we vote on as we go, before we vote on its entirety, but Mr. Teitler, if you will explain the reason for that change.

MR. TEITLER: It's my understanding this paragraph was placed in there to deal with other gifts given to the County Commissioners in their official capacities, that we weren't trying to control gifts given to them in other capacities, in their personal, private life, and not necessarily from relatives, because that wouldn't even be covered by the

reporting requirement, but other people that would give them gifts outside of their professional capacity. And those would have to be reported, as they are now.

COMMISSIONER DE JESUS: Mr. Wolfe and Ms. Rorapaugh.

MR. WOLFE: I think my comments on that too, which I guess could be construed both ways, was also to let a County Commissioner know that they can go and do their constituent work at a BBQ or rotary club meeting or a Chamber of Commerce breakfast, and not be afraid to sit down and take a meal in conjunction with their work. That is not going to violate something. The City of Pembroke Pines has done that, they invite their County Commissioner, and he or she is afraid to go because there is a meal being served.

MR. TEITLER: And that is what this covers.

MS. RORAPAUGH: And I think the state ethics code also --

MR. WOLFE: -- exempts a lot of that stuff.

MS. RORAPAUGH: It has it all explained.

COMMISSIONER DE JESUS: Well obviously we want to be as clear as possible, so there is no misinterpretation of what we meant by that. Is everybody okay with that change? With no objection being heard, let's go to outside/concurrent employment.

Does any member have any comments in that area?

MR. WOLFE: Some of these, RLW thing was probably my notes from earlier on, that Rob put -- I think the issue that I think we want to discuss in that paragraph is, County Commissioners should not be employed as lobbyists or engage in lobbying activities before other municipalities, and I thought it was important that we discuss --

beyond municipalities, it's taxing authorities, governmental entities, within Broward County.

MS. RORAPAUGH: Quasi-judicial boards.

MR. WOLFE: Things like that. We're not telling somebody if they are an attorney or if they lobby in Tallahassee for another client outside of the county or -- we're not restricting that. We're saying they are not going to take a private entity and go to a city and represent them on a zoning change or a developer agreement. I think it needs to be broader to include school board, hospital districts, taxing authorities, any governmental entity within Broward County. They shouldn't come into your city in front of your dais and they --

MS. RORAPAUGH: And they shouldn't be representing somebody in front of a zoning board for a city.

COMMISSIONER DE JESUS: Mr. Wolfe, do you have a recommendation for language for that?

MR. WOLFE: I would -- I don't know how -- it should say before any government entities, taxing authorities, quasi judicial boards, within Broward County.

MS. RORAPAUGH: And appointed boards and commissions, and I would defer to Rob if I'm missing a legal description.

COMMISSIONER DE JESUS: I don't want to take a kind of fire at will statements without trying to understand them. Define quasi-judicial and I think you said appointed. That would be this committee.

MS. RORAPAUGH: Yes.

COMMISSIONER DE JESUS: They wouldn't be able to lobby us.

MS. RORAPAUGH: They could as County Commissioners, lobby on behalf of the Broward County Commission, but not representing the Broward Coalition.

MR. WOLFE: If there is compensation.

COMMISSIONER DE JESUS: If they are being paid?

MR. WOLFE: Right, I think the county lobbying code exempts your home owners, other associations for non-compensation.

COMMISSIONER DE JESUS: So, do any members have any questions? Commissioner Wexler is my district Commissioner for our city. Would this prohibit her from coming to speak before us on an issue that affects our city, that she would like to see us deal with, as our District Commissioner?

MR. WOLFE: We have the, I think -- as a County Commissioner with governmental business or business of the Commission, they should be free to go as they please in their official capacity. I'm talking about Commissioner x comes before your board, and happens to be representing a private developer or his law firm is representing a developer, or a garbage, a waste management district or something that has happened, where there is compensation involved. It shouldn't happen, because --

COMMISSIONER DE JESUS: So the key is compensation. Do any members have any comments?

Mr. Teitler, are you clear with language in that area?

Do any members have any comments or suggestions for section B?

MS. RORAPAUGH: Is there a legal term for lobbyist that we're using, since we say lobbyist throughout all of this?

MR. TEITLER: In the beginning we say --

COMMISSIONER DE JESUS: It's defined in the front.

MS. RORAPAUGH: Okay. Good. Sorry. I knew we had something.

MR. TEITLER: Second paragraph.

COMMISSIONER DE JESUS: In that section, there was a question mark about including contractual relationships, whether that reporting should be disclosed monthly or quarterly, the searchable data base and designate a department. We need to resolve those issues and any other issues that any members may have.

The floor is open.

Mr. Fink.

MR. FINK: I think if we stay on the course we are, we should include contractual relationships. It should be monthly. It should be in searchable data base, and it should be with the designated county --

COMMISSIONER DE JESUS: What is the appropriate department for that? Is that county administration, county clerk, county attorney?

MS. CEPERO: That is an issue that we have not fully resolved yet. There's been some discussion back and forth about whether it should be the county attorney's auspice, but we will have some outside conversations this week about that.

COMMISSIONER DE JESUS: Isn't public record, county clerk?

MS. CEPERO: Public records would be.

COMMISSIONER DE JESUS: Wouldn't that be a public record?

MS. CEPERO: Yes, but in the context of how this sits, with the ethics code, that might be why it might be appropriate for the county attorney's office. We will have this discussion with the county attorney.

COMMISSIONER DE JESUS: Okay. It's timely, so they know that.

Does it matter -- let me call Mr. Scherer.

MR. SCHERER: Would it make sense to have those, to be reported to the inspector general?

COMMISSIONER SHECHTER: Would his function be record keeping?

MR. SCHERER: Well, this is record keeping, but it would also be looking at it and seeing, oh my goodness, somebody has got this contract, that contract, they are employed over here, employed over there. I mean, this is something you would want the inspector general --

MR. FINK: If it's a searchable data base, then even the county attorney's --

MR. SCHERER: I think the inspector general down in Dade County keeps track of this kind of stuff.

MS. RORAPAUGH: The think the problem is, we haven't established an inspector general yet. I think we can come back and revisit that once we finish the rest of this.

MR. COLLADO: I do think that in the description of the job of the inspector general, that it will have the power to search and request and procure documents and information as it sees appropriate for the investigation or conclusion. It does say it. This would be very much part of it.

COMMISSIONER DE JESUS: This is really maintaining that data base. He is going to have access to it. It's a county clerk function. It a city clerk function. If the county administrator says I want the county attorney to handle it, then so be it, as long

as it's readily searchable. That is the key, but I don't believe that is a function of the inspector general. It would allow him access to it without restriction.

Can we go back up? Does any member have any recommendations on the comment including contractual relationships?

MS. RORAPAUGH: We should keep that.

COMMISSIONER DE JESUS: Are we good?

MR. WOLFE: Yes.

COMMISSIONER DE JESUS: So that no longer becomes a question.

Monthly versus quarterly. Remember, this needs to be manageable. Mr. Wolfe.

MR. WOLFE: We haven't had to report, in my past life, things -- monthly is a nice thing, but monthly is a little tough. Some of you electeds that are here, I think quarterly is fine. Monthly I think -- I just think you run the risk of forgetting things and things happen and we're providing disclosure, but I have been in things where I had to disclose things quarterly in California, and monthly would be very tough. You forget things.

MR. FINK: What is it that we're asking them?

MR. WOLFE: The contractual relationships for outside employment. I don't think it's going to change.

MS. RORAPAUGH: If I'm a County Commissioner and I work for IBM and I have worked for IBM 20 years of my life and I still work for IBM, then every quarter I will say I work for IBM.

MR. BAKALAR: Quarterly is manageable.

MR. FINK: Is there something that says about lobbying, if -- can they be hired as a lobbyist, as long as it's outside of Broward County.

MR. WOLFE: Well, yes. They would have to report it.

MR. FINK: Would they have to report it quarterly or at the time of inception?

COMMISSIONER DE JESUS: That is what will be reported quarterly. There won't be anything else to report that is within the county, because they are not allowed to do it.

MR. FINK: At the time they are being hired, are they to report it right then and there that they have been hired and they can wait 90 days to report? That is what you are saying? If I was hired on January 1, I can wait until March --

MR. WOLFE: Sorry to interrupt. Normally when you get those reports, you had a time frame. A time frame is January 1 to March or April, whatever. List all your employment within period, or gifts, whatever, and you put all that on there and submit it.

MR. FINK: So going back to my question, if you are hired on January 2, I would not have to report that hiring until March.

COMMISSIONER DE JESUS: Under this current --

MR. BAKALAR: You wouldn't have to report it but you would still be prohibited if we pass this from lobbying, so it not a danger to the. --

MS. RORAPAUGH: You would report it quarterly. I think the state, if you are lobbying in Tallahassee, they have their own requirements for filing, and if you are on federal level, as soon as you begin lobbying, you have to file immediately, so there is a second repository of lobbying activities.

MR. FINK: And that is a searchable data base?

MR. WOLFE: Yes.

COMMISSIONER DE JESUS: Commissioner.

COMMISSIONER SHECHTER: How would we treat an independent contractor here? For example, I do arbitration work. I am not an employee. I only get paid if I handle a matter, and it not a salary. I receive remuneration, but its -- would that apply here? It says uemployment. I'm not employed by them. They make that very clear.

COMMISSIONER DE JESUS: That was what was added, contractual relationships.

COMMISSIONER SHECHTER: But it's not a contractual relationship. I have relationship with them, other than on a case-by-case basis.

MR. FINK: That is a contractual relationship.

COMMISSIONER SHECHTER: I don't have a problem reporting it at all. I'm just curious to know how we would handle an independent contract.

COMMISSIONER DE JESUS: Do any other members have any comments? Section C. Clarification needed in other relatives or office staff.

MR. WOLFE: That was me that brought this before the commission. I would like to -- the purpose of this was to make it very clear that the spouse or registered domestic partner and it should say staff too.

My other question is going to be, we have a staff issue on this, but I think we can address it in other way. No spouse, domestic partner or staff in this building should not be engaged in lobbying activities in front of the county commission, or their spouses.

COMMISSIONER DE JESUS: Did you say in this building?

MR. WOLFE: Well, I am saying this building figuratively. I'm talking about, if you are a staff member for the County Commission, employed by the County Commission, or a spouse or registered domestic partner of a County Commissioner, they would not

be engaged in lobbying activities or conducting business as a vendor or contractor with Broward County.

COMMISSIONER DE JESUS: So your recommendation at this time is other relatives be struck?

MR. WOLFE: No. Not necessarily. I can see the point where, if you have a sibling, that would be a problem, but you shouldn't construe it as, they can't work for the county. I'm not talking about that. I'm talking about in they are contract lobbyist or a vendor or businessman willing to do business with the county. That should be struck. I don't want to be construed as, you have a relative who is a fire, a police officer or fireman or works in code enforcement or something like that. I don't want to impede employment. I'm talking about outside businessman, outside lobbyist coming in. We do have that problem in this building.

COMMISSIONER DE JESUS: Okay. So other relatives would now be siblings.

MR. WOLFE: What is the best legal word to use, relatives or -- I don't want it to be I'm the second cousin, third removed from my grandmother, but I think if you are the son or daughter.

MR. TEITLER: Immediate family.

MR. WOLFE: Immediate family is a better word.

MR. SCHERER: There are some definitions for that in state law.

MS. RORAPAUGH: As defined in state rules.

MR. WOLFE: And I -- when you say immediate family of Commissioners or staff, employees.

COMMISSIONER DE JESUS: Well then, that would apply to registered domestic partner as well then, right? Immediate family to spouse, registered domestic partner or staff. Is that what you are saying?

MR. WOLFE: Correct.

COMMISSIONER DE JESUS: Any other comments?

Mr. Scherer and then Ms. Rorapaugh.

MR. SCHERER: Can a spouse of a County Commissioner lobby cities and political subdivisions in Broward County?

MS. RORAPAUGH: I prefer not.

MR. WOLFE: I prefer not either, however I think with the scope of what this ordinance does, I'm more comfortable with saying, sorry honey, you can't come before me, I'm a senior staff person in this office or I work for the County Commission. You can't lobby this County Commission, but we're not restricting your employment to other government agencies. I don't think that is a fair thing to do.

COMMISSIONER DE JESUS: Mr. Teitler, did you not opine on that earlier, that we can restrict them from doing business here but we could not restrict them from doing business elsewhere?

MR. TEITLER: Correct. If we're limiting the business with the Board of County Commissioners, that is fine. Going beyond that would be problematic.

MR. SCHERER: You think it's problematic to limit it to the county? If we're limiting a County Commissioner from lobbying a political subdivision because they have a lot of clout with the city, it seems to me if their husband or wife could do the same thing, how is that a lot different?

MR. TEITLER: It my opinion that that would be far more problematic than restricting them from employment before the Board of County Commissioners.

MR. BAKALAR: And I think the County Commissioner and the spouse would be treated differently, and our function here is to deal with the County Commission.

MR. SCHERER: The County Commissioner and their spouse. It doesn't have to be a County Commissioner.

MS. RORAPAUGH: I agree.

MR. SCHERER: If their husband or wife is a lobbyist and doing business in the county, then they don't have to choose. It seems to me that we're trying to avoid that kind of a problem. We really have skirted the issue here, unless there is a legal prohibition against it. He is their case law on it?

MR. TEITLER: I would think if the code attempted to limit the employment of a County Commissioner's spouse beyond lobbying the County Commission, that would be challenged in the Courts.

COMMISSIONER DE JESUS: Ms. Rorapaugh and Mr. Fink.

MS. RORAPAUGH: I do think when we discussed this, because we have talked about this issue before, we did talk about possibly having language that immediate family, spouse or domestic partner who lobbies other political entities in Broward County would report that lobbying activities, and I think -- I haven't looked at a county financial disclosure, but I believe spouses and domestic partners are part of that financial disclosure, so it would seem reasonable that lobbying disclosure would be treated the same way.

COMMISSIONER DE JESUS: Mr. Teitler, will we not have a provision in the end that says if any portions of this --

MR. TEITLER: A severability clause.

COMMISSIONER DE JESUS: So we don't know whether it's going to be challenged or not going to be challenged. If it's challenged and that gets thrown out, the code still stands. I hear what Mr. Scherer is saying. If we're trying to eliminate the influence, how do you do that with the Commissioner and not do that with the spouse. Instead of me going, my wife is going.

MR. TEITLER: My suggestion is to do what Robin suggested, to have another provision in there for the immediate family and spouse and just make that transparent, instead of banning it, which I still believe would be problematic. Just make that transparent with a disclosure.

MS. RORAPAUGH: And I would like to extent that to staff under the immediate control of the Commissioners.

MR. COLLADO: Extent what, the transparency or --

COMMISSIONER DE JESUS: Hold on one second. Hold on one second. Let's wait to be --

MS. RORAPAUGH: -- on outside, doing lobbying outside of the county.

COMMISSIONER DE JESUS: Mr. Bakalar, Mr. Scherer and Mr. Collado.

MR. BAKALAR: I agree with Mr. Scherer. I think that is what the public actually expects. I think it’s worth the trouble some to see if it's challenged legally.

MR. COLLADO: I tend to agree that if, basically we're saying you can't go but you could, meaning the spouse, we haven't addressed the issue. If it gets challenged, then so be it.

COMMISSIONER DE JESUS: I'm comfortable with staying within our scope, and if making one decision just opens the door for another, that is still within our scope. I'm not real comfortable to keep reaching. How far do we reach? At some point you have to define, now we're trying to legislate everybody who does anything in this county. I get uncomfortable at that point, but I hear what we're saying. We're talking about immediate family, because again, the reason this came up initially, if you go back and look at your notes, we talked about the personal financial gain, and that is what this is relative too. At least in my house, my wife owns it all. If she makes money she owns it. If I make money she owns it. So we -- I hope she is not watching this. I see where we're going with this. We need to make sure that we don't stop one thing and just open a door or another, if there is immediate financial gain to that elected official.

Mr. Scherer and Mr. Wolfe.

MR. SCHERER: We go back to paragraph 2, 7 A, where it says County Commissioners -- all we have to do is put and immediate family, right there. Their immediate family. Then we wouldn't even have to worry about C.

COMMISSIONER DE JESUS: How about this suggestion. We ask Mr. Teitler to do some legal research on the matter and provide us with some supporting documents. I also don't want to aimlessly put something in there that we know we're going to lose, just for the sake of it. If there is case law --

MR. WOLFE: We're reaching and telling them, you as a Commissioner plus your spouse as a domestic partner and staff are not going to accept any gifts, so we're making a reach, which I think is defensible.

MR. TEITLER: Well, that respect was that County Commissioner cannot directly or indirectly receive gifts, which means through a spouse or staff, but I do think taking this approach is going to be problematic and will be challenged in the Courts, and if you want to do what the Chair is suggesting, let us look into this before you make a decision on it.

COMMISSIONER DE JESUS: At the end of the day, we can't control whether somebody is going to file a lawsuit or not file a lawsuit, but I also -- if it legally evident that what we're doing is wrong, it doesn't make sense for me to do it, if the law backs that up. There is probably parts of this we don't think are going to be challenged and will be challenged. That is not our fight.

MS. RORAPAUGH: And I don't think it our fight to worry about what is going to challenge, because frankly, I would not want to be an elected official bringing the first Court challenge to an ethics code. Whoever wants to be the first one, be my guest and they will get a lot of press.

Secondly, I think if we do a little legal research we will probably find out exactly where we need to go on this. And I know in other government entities, there are restrictions on what spouses can do. You make a choice. Not necessarily elected officials, but in some other government capacity, so this is not unusual. We're not asking for lawyers to hand over their client packages. We're just saying, you make a

choice, and that choice should be, can be extended under some circumstances to your spouse making a choice also.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Thank you.

Pursuant to what Bill said about adding immediate family, if we think it's going to be a challenge, I think we should add a D, because that way if you have severability, it doesn't eliminate all of paragraph A.

MR. SCHERER: You can just pull that part --

MR. FINK: People expect us to eliminate as much of the perception that exists out there, and it may be problematic, but the fact of the matter is, it doesn't clear the -- it doesn't pass the sniff test, for lack of a better phrase, and if the spouse is able to go and lobby down to other entities within the county, it really does leave a perception among the voters that, okay, so Commissioner can't do it but the spouse can, and there is possible remuneration involved, so I think we have to go for it.

COMMISSIONER DE JESUS: I think we can bring this section to a close.

Is there a consensus that regardless of the legal ramifications of this, we want to insert the language immediate family, and if it challenged, let it be challenged.

MR. TEITLER: Is that inserting it in paragraph A and just eliminating C?

COMMISSIONER DE JESUS: No, I believe it was in C. Was that not the recommendation?

MR. WOLFE: I don't think it matters.

MR. FINK: Whichever way is easiest.

COMMISSIONER DE JESUS: Let's --

MR. SCHERER: C also says and cannot conduct business as a vendor with the county.

MS. RORAPAUGH: And extends that to staff.

COMMISSIONER DE JESUS: I think it's intended to go into C.

Mr. Teitler, are you clear with the language?

MR. TEITLER: Yes.

COMMISSIONER DE JESUS: Any other comments on section 2, A, B or C before we call a vote? We need a motion to accept.

MR. WOLFE: So moved.

COMMISSIONER DE JESUS: Moved by Mr. Wolfe.

MR. FINK: Second.

COMMISSIONER DE JESUS: Seconded by Mr. Fink. All in favor signify by saying aye. Any opposed, same sign.

Before we go on to 3, staying consistent with when County Commissioners come into our meeting, I want to recognize you Commissioner Wexler. Sorry I didn't stop the debate.

Are you here to listen or would you like to join us?

COMMISSIONER WEXLER: No. I have talked enough.

COMMISSIONER DE JESUS: Okay. The offer has been made.

Number 3, lobbyist. Section A, any comments from any Board members?

Mr. Fink.

MR. FINK: I'm going to give a scenario similar to what Mr. Scherer did. Let's say in fit of (inaudible), Neal De Jesus decided to run for the County Commission. Let's say

in a further loss of mind, he decided to hire me to be his campaign manager, and let's say because of my wisdom and expertise you got elected.

Should a company be allowed to hire me, as your former campaign manager, as a lobbyist?

MS. RORAPAUGH: That is what they do now.

MR. FINK: My question was, should they be allowed, and I'd like to propose a prohibition on any campaign, senior campaign staff being allowed to lobby for a period of two years prior to --

COMMISSIONER DE JESUS: Are you addressing section A right?

MR. FINK: Sure. It is section A; isn't it? Should avoid the appearance of impropriety of dealing with lobbyist, so I'm trying to bring up a scenario that we have not addressed before, but it does fall under it. Should a campaign manager be allowed to be hired by x,y,z widget company, two days after they are elected as a County Commissioner, as a lobbyist, and I would like to see prohibition on that, and that County Commissioner would have to make a decision as to could they use that person, and that prohibition extends two years before or two years subsequent.

COMMISSIONER DE JESUS: Why couldn't that County Commissioner recuse themselves from voting on that because of a conflict of interest?

MR. FINK: What is the conflict of interest?

COMMISSIONER DE JESUS: That lobbyist is my campaign manager.

MR. FINK: I don't think there is a conflict of interest because there is no personal benefit to the Commissioner for remunerations.

COMMISSIONER DE JESUS: Well, if that is the case, why would you prohibit them from being able to use them?

Am I not following something?

MR. FINK: Because my clout with you, if I walked in, as an example and I was just hired to lobby you on the purchase of equipment or process, you would be predisposed to vote in favor, or the perception would be you would be predisposed to vote in favor.

You are saying you could recuse yourself?

COMMISSIONER DE JESUS: I'm saying if that is your point, rather than prohibiting that for two years prior and two years after, why don't we just require the Commissioner, like any other conflict, to recuse them self. That lobbyist before us is my campaign manager, and I'm going to recuse myself from the discussion and the vote. I mean, it seems that is the way to accomplish it. Either it is or it isn't, and if you are argument is, it is, because you just helped me get elected, and I can't make a sound decision because I'm biased towards you, then I need to recuse myself.

Members, the floor is open.

Mr. Wolfe.

MR. WOLFE: Well, I know the practice that goes on, but you have a problem with defining what that is and some campaigns are more sophisticated than others and some take compensation and some don't in a campaign, and there is other -- I mean, I came out of that business for 20 years doing campaigns, plus it's very -- I think political activity from an individual is protected speech and protected activity, to a degree, but I know what you are reaching, I know what you are trying to correct some impropriety that

is perceived out there, but I have problems with restricting political activity a little bit. As long as there is sunshine on it, laws are transparent, that is the system we have got, but I would really like to explore that a little more.

MR. FINK: Am I prohibiting or restricting it? I'm saying one or the other. You want to be a lobbyist, that is fine. You want to be a campaign manager, then you can't do it for a period of a certain time before or after, because that lobbyist will now go and know if I go to Mr. Shechter, who is the next County Commissioner, and Carl knows I'm Neal's campaign manager, is there a predisposition there or does it create a problem, and that is where I'm trying to get at.

COMMISSIONER DE JESUS: If I was to argue that, I would argue there could be real or perceived, why does that go away in two years? I'm elected for four years. You got me elected. You're likely going to be my campaign manager again, so either I need to recuse myself because of that personal relationship or at least disclose it and let legal say whether I need to step off the dais or not. I need to disclose that relationship. I'm not going to benefit from the client you are representing, but there needs to be transparency there. I don't see where that time frame stops me from being biased, or do you, in two years, two months or 10 years.

MR. BAKALAR: We don't want to control the behavior of the lobbyist, because that is not our function, but in terms of the County Commissioner itself, they would just recuse themselves. That is what they can do and that is what they should do if there is a conflict of interest.

COMMISSIONER SHECHTER: How far out do you want to reach with something like this? You are talking about a lobbyist. What happens if you have a

friend. Bill gets elected to the County Commission, he has a good friend, he is going to recuse himself. This guy is a good friend of mine. It the same thing. Transparency is what is important. It's out in the sunshine. Everybody knows there is a relationship and you deal with it.

COMMISSIONER DE JESUS: Any other members?

MS. RORAPAUGH: In our recusal rules, do County Commissioners have to recuse themselves if their former campaign employees or people who gave money to them, etc., etc., come before them as lobbyist?

MR. TEITLER: No. It's under the conflict of interest rules.

MS. RORAPAUGH: But it is under.

MR. TEITLER: Yes.

MS. RORAPAUGH: Okay.

MR. COLLADO: Mr. Chair, in the period of time that they are elected, what is the life of time for the recusal?

COMMISSIONER DE JESUS: I don't think there is a time span. Mr. Teitler, correct me if I'm wrong.

Is there a conflict of interest or not? It would behoove me if my campaign manager is representing a client before me --

MR. TEITLER: -- to disclose that.

COMMISSIONER DE JESUS: It's going to bite me if I don't, and I think the law requires me to do that.

MR. COLLADO: My question actually is, Mr. Chair, if I recuse myself here, because the campaign manager is before us, would I have it do that again, say three years from now, until that election cycle is over? Is there a time limit?

COMMISSIONER DE JESUS: I don't believe there is.

Mr. Teitler.

MR. TEITLER: If there is an actual conflict?

MR. COLLADO: Yes. If there is a conflict this week because of the relationship, provided the relation hasn't been severed, that relation is going to be the same in three years.

COMMISSIONER SHECHTER: If it's an ongoing relationship.

MR. COLLADO: Exactly.

COMMISSIONER DE JESUS: I think the key is, what we might be confusing here is disclosure and recusal. They are not the same.

MR. COLLADO: I'm talking about recusal.

COMMISSIONER DE JESUS: Okay. If you disclose it --

MR. TEITLER: You have to disclose a conflict.

COMMISSIONER DE JESUS: Then the county attorney will decide whether that is a real or perceived conflict and recommend whether you need to recuse yourself or not recuse yourself.

MR. FINK: It's not considered a conflict now?

MS. RORAPAUGH: No.

MR. FINK: Well then, isn't that the issue we're trying to get to. Isn't it a conflict?

COMMISSIONER DE JESUS: Ms. Rorapaugh.

MS. RORAPAUGH: I think what Mr. Fink is trying to get to is currently within the registered and unregistered lobbyist in front of the County Commissioner, many people act in the same capacity for their clients as I do for County Commissioners, but also represent private entities before the County Commission. I don't speak a lot about this, because if all those people are out of the business, I benefit, so, you know, in fact many people who are instrumental in the elections of County Commissioners, come before the County Commission on a regular basis as lobbyist, registered and unregistered, and I have never heard -- and Commissioner Wexler can correct me. I have in my many years of watching County Commission meetings, never seen a County Commissioner recuse themselves because of that relationship.

COMMISSIONER DE JESUS: But I'm saying we can put that in here. We can require disclosure and/or recusal if there is a conflict. I think the disclosure has to vent whether it a conflict or not. Doesn't that make sense? We're assuming every disclosure is a conflict. I think you have to here the disclosure first, sort through the relationship and then decide whether that is a conflict or not a conflict.

MS. RORAPAUGH: Can we put specifics in there that establishes that as a discloseable relationship?

COMMISSIONER DE JESUS: I think that is open, if someone wants to put that on the floor.

Commissioner Wexler, you do want to speak to us?

COMMISSIONER WEXLER: I know Bob works for the county attorney's office, but you made a statement and that is not correct, in as far as accepting campaign contributions, and declaring from someone who may come before me or present to a

selection committee, that we have received that campaign contribution and that is a potential conflict. Never has ever happened, and as far as I know, nothing has been violated either, because every quarter, when you are in campaign mode and you have opened up your account, you're required to file your report of donations, contributions and expenditures, which is public record downstairs through the Supervisor of Elections website.

COMMISSIONER DE JESUS: Which now if we pass that will be in a searchable data base.

I think what Mr. Fink is recommending was, to use the example with the campaign manager. If your campaign manager came before you now as a lobbyist, because many of them have duel hats, as we just heard, what do you do? You just helped me get elected. Now you are representing a client. Do I need to disclose that? Is that what we're looking for, and then decide whether that is something I need to recuse myself from or not?

Mr. Wolfe.

MR. WOLFE: If they are coming before you, they better be a registered lobbyist, and the penalties aren't high enough. They need to be higher. But, I mean, we start -- there is that slippery slope. In Tallahassee if you are a fraternity brother with the Governor, you have got a lot of in's for appointments and things, and you know, if you are a fraternity brother of mine, you are probably going to have a closer relationship then if you are a campaign associate, and if you are a bad campaign manager, you're not going to have a good relationship, and I just don't know if all of these things are definable. I think we ought to focus on compensation, behavior, transparency and

lobbyist registrations, and if there is -- if there is people not registering, and I believe the lobby penalties aren't high enough. I believe that. We haven't gotten there yet. That is sort of what I'm thinking.

MR. COLLADO: What I basically am getting from this, once the disclosure is made, I know this person, he is my campaign manager. Who determines there is a conflict there? That Commissioner says there is a conflict there, I'm going to recuse myself or get advised from the attorney and say, should I recuse myself? How does that process -- how does that decision get reached?

MR. TEITLER: If the Commissioner believes that there is a conflict, he is able to abstain. If they do not believe that there is, there is no need for that.

MR. COLLADO: The individual Commissioner?

MR. TEITLER: Yes. If there is a possible conflict, if they believe there is a possible conflict, they have to abstain. But if they do not believe that there is and they are just disclosing, then they don't have to abstain. If there is an actual conflict, that is a different story. They have to abstain.

MR. COLLADO: Okay.

COMMISSIONER SHECHTER: In a situation like that, I would discuss it with my city attorney. I discuss it with Sam Goren and I ask do I recuse myself or do I vote? He would advise me. Of course full disclosure, I'm assuming. That is how we go, and I have had that situation arise, where I don't know if I should recuse myself or not. I ask him and he tells me.

MR. COLLADO: So it would be wise for that Commissioner to say, Mr. Attorney, would you give me legal advice?

MR. TEITLER: Often our office will send notice of conflict submitted by a County Commissioner, if they intend not to vote on an issue.

MR. BAKALAR: I think we should leave this as it is. I agree with Mr. Wolfe, there is a huge slippery slope here because again, campaign manager, assistant campaign manager, instrumental to a campaign, what does that mean? Is that thousands? Is that hundreds? Is that everyone who ever gave $1 to a campaign? I think we're going to end up not keeping this manageable.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Is there some language that would codify, because a campaign manager, assistant campaign manager, anybody who makes a contribution, (inaudible), they are not likely to become a lobbyist. Certainly a campaign manager is likely to be a target for x,y,z widget company, to come and be a lobbyist, so he can lobby --

MR. BAKALAR: How about someone who bundled a whole bunch of money? They are not campaign managers, but they are making sure that the campaign is infused with a lot of cash. I mean --

COMMISSIONER DE JESUS: Mr. Fink, you have a recommendation. Is there support for Mr. Fink's recommendation? Showing no support, we will leave section A as is.

Section B. Any comments, suggestions for section B? Would members like a minute?

Ms. Rorapaugh.

MS. RORAPAUGH: Do we need to have a time basis on this section? Is in the county registration when you go up and sign in?

MR. TEITLER: I think the county logs when they visit are contemporaneous with the visit.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: There was appoint several months ago when we discussed this, Monica, you advised the methodology of the hand written log. Has that everybody resolved?

MS. CEPERO: That is in the final stages of testing. We're doing an internal computer program, piggy backed on something we already have in the county. And that will be changed. My recommendation would be that we don't put detail on how to do that in this code because as technology changes, the method might change and we could do it a little better, but county administration is already working on that and we're hoping to have that on line within the next couple of months, actually implement.

COMMISSIONER DE JESUS: I think if we didn't put -- again, if we go back to the debate on this issue, it wasn't necessarily whether it be electronic or card scan or card swipe or drivers license or all those different -- it was legibility, and that be monitored. So if we don't -- if we're not going to put in, if we were to say electronic, then we know it has to be legible. I think we're defeating everything we have debated if we don't put the legibility portion in there because again, we looked at the logs and you see the large percentage that was simply chicken scratch, so it's a process but it's not worth anything if you can't read it, so I would recommend if we're not going to identify or have settled, that would be through driver license scan or something that we put language in there that says must be maintained, monitored, whether that is the receptionist that does that or somebody that it's completely -- or whether she does the data input, give

me your driver's license and I will put it into a computer log, something or we're right back where we started. That whole debate on this issue is simply the legibility portion. The floor is open.

MR. FINK: Under C 2 --

COMMISSIONER DE JESUS: We're still on 3 B. Any members have any comments? I think if we don't put the form of technology, then we need to insert some language that says must be legible and maintained by a county staff member. The book sits on the counter and nobody knows who signs it or who doesn't sign it, what they write.

MR. FINK: Under 3 B 2 --

MS. RORAPAUGH: In a legible manner readily accessible.

MR. WOLFE: Should this be administered by the county administrator or --

COMMISSIONER DE JESUS: That is what it says but --

MR. WOLFE: But it says available. Maybe --

MR. COLLADO: Mr. Chair.

COMMISSIONER DE JESUS: Yes.

MR. COLLADO: I thought we had this discussion where we said it would be electronically kept or something. I remember something like that.

COMMISSIONER DE JESUS: And that was what was just said, but staff reported that they don't have that resolved yet so they don't know whether they can do it that way, so we don't want to put something in there that they can't do.

MR. TEITLER: Is the legibility issue sufficient in paragraph 2?

COMMISSIONER DE JESUS: I believe it is, yes. Well again, the issue isn't whether they scan it. It's what they can. If you can't read it when they scan it or hand it to you physically, it's not serving the purpose.

MR. FINK: I agree with you.

COMMISSIONER DE JESUS: I think that language is clear.

MS. RORAPAUGH: Good job.

COMMISSIONER DE JESUS: 3, A, B, 1 and 2. Any comments?

3 C?

MR. FINK: 3 C 2.

COMMISSIONER DE JESUS: There is language -- does anybody have any comments? Do you want a minute to read? While you are reading, Mr. Wolfe, there is a comment in here towards the end of the first paragraph, this shall include personal and impromptu meetings and communicating by any form of telephonic or electronic medium. From the onset, one of the things that my position has been, we said we don't need reform, we need to address these areas, but is it practical? Is it manageable? Is it something that is realistic, and last Thursday evening, there was a function with a lot of elected officials, the Broward League of Cities general membership dinner. A lot of elected officials, a lot of lobbyists, a lot of non-lobbyists, vendors, contractors, all of them are there. I want to be careful that your interpretation of an impromptu lobbyist session and mine is the same. If Bill Scherer comes up and talks it me and begins to explain to me this issue he is dealing with, with the parking garage, I may or may -- and it's a hypothetical, I may think Bill and I are having a conversation. Bill is telling me about his business dealings. It's not in my city. I don't know that it's in my city. I have

knowledge of that. We leave that impromptu. Somebody's interpretation was that Bill just lobbied me on that issue. I don't even know that he is representing a client that is coming before me on that issue, but yet I didn't disclose that and now the next thing I know, Bill is before us. I got my agenda. I look up and Bill is in the audience, and we ask anybody here for this item to stand up and be sworn in and Bill stands up. I'm not going to remember, Bill talked to me. I didn't realize that was lobbying. It sounds good, but I think we need to be careful when we make a broad statement like that. I understand the registration when you come to a meeting. I understand if I'm going to meet you outside of this building, I'm going to meet with Robin at Starbucks because she wants to talk to me about this client she is representing. I need to disclose that. Impromptu and personal, if Robin wants to talk to me about some business dealings in the county, in a personal manner, where is that disclosure for that and why is that necessary, and how do I know whether this is business or not. It's a slippery slope. We keep talking about the slippery slope, so I think we need to look at language like that that is broad.

MR. TEITLER: The definition of lobbyist which is what he is controlling here, under the county ordinance, is defined as a lobbyist seeking to influence a decision, so that is where the difference would be in the discussion. If the lobbyist is intending to influence a decision before the County Commission, then that would be prohibited conduct.

COMMISSIONER DE JESUS: And using that example that I just used, Bill is simply talking it me. I have idea he is even representing a client that has an issue before me. Bill doesn't disclose it. He is not required to disclose it. I just had a

conversation with him at an event. It could be in this hallway here, and the next thing I know, I find out Bill is representing that client, and I didn't disclose that because my period has passed. I just -- again, is it practical? Is it manageable? What are we looking at accomplishing there? The intent is, in your soliciting me and I know about it, whether I'm meeting with you here, on the golf course or in a restaurant, the public should know about that.

MR. BAKALAR: What period has passed?

COMMISSIONER DE JESUS: Well, we're going to define that. If you don't know that, it doesn't matter what that period is. I'm not going to disclose it. Right? It's within days. That is what it says, x amount number of days, so how do I know -- I didn't go with the intent. I didn't run into him with the intent. I know that the public wants to know that you have met with me on this issue. I set the meeting, you called my office and said I'd like to meet with Commissioner De Jesus, as I did with FP&L today. That was very specific. They were there to lobby an issue. I understood that. That should be disclosed. The public should know that, and when they come before us on an item, I will stand up under disclosure, when the city attorney asks us and I will say, I spoke with Lynn Chattis (phonetic spelling) from FP&L on this issue, but if I run into Lynn Chattis and she doesn't -- we simply have a conversation, is that lobbying or not, if I don't know that that agenda is coming before me, and I think, as you read this, it certainly can be interpreted that way, and I'm okay with it, but if we're trying to do something, I don't think this does it. I think this sets people up to fail, if you are not careful.

MR. TEITLER: I think we can look at some more finely tuning, but as you see, you any what the theme is.

COMMISSIONER DE JESUS: Again, I believe the theme is when you meet with somebody to conduct business, we want to know about it and I think we need to do that, but how do you do that impromptu and personal. If I meet with you on a personal matter for lunch, I have to report it? It says includes personal and impromptu meetings.

MR. BAKALAR: Where lobbying activities take place. We can go to lunch. I can't lobby.

MR. FINK: Let me ask you a question.

MR. BAKALAR: Well, I can lobby you over lunch. You would need to report it.

MR. FINK: Using your example of the parking garage, and let's assume that people are going to do the right thing. One of the reasons we're here is because they don't do the right thing. Using the example you gave, and now you see Bill in the audience and here comes the parking garage, what would you do?

COMMISSIONER DE JESUS: Disclose it. But in this scenario --

MR. FINK: At the time you took place you didn't, because you didn't know it was --

COMMISSIONER DE JESUS: But in this scenario it says, the disclosure shall be made within, and we're going to put a number in there, within x amount of days. Again, I think impromptu and personal are two very broad statements.

MR. WOLFE: It could be construed you went to agenda together or a football game together.

COMMISSIONER DE JESUS: I run into people everywhere. You know, you see it. You're going to call the inspector general and say I saw Neal and Bill talking at this meeting, and Bill was lobbying him. The inspector general asks me, and I say Bill never

lobbied me. What did you talk about? We talked about a parking garage that he is doing in the county. I think you have to define -- if you just read that as it is, and you can see in this debate, there is a lot of uncertainty as to what that means. It sounds good. It sounds like we're locking you down and I better report it, but report what?

MR. COLLADO: I just want to say, because the intent that I feel we're seeking is for us to give credibility to public service, and it shouldn't be a gotcha, and this could very easily translate into a gotcha, if we just have an event as a family or friends house, and a conversation is strictly between two people where I just tell you basically, you know, that type of thing. It could become a gotcha. I completely agree with the Chair.

COMMISSIONER DE JESUS: There was an example, our city attorney -- I think that is what that is going to do if we're not careful. I'm just asking for clarification. What was our intent with that language? How did that language get in there, and does it need to stay without a clear definition?

Let me just use this as an example.

Our city attorney was at that event. A President of a corporation was there, introduced himself, began to tell me about these new programs that he had. Because this was in my mind, it doesn't even apply to me right now. I went to our city attorney and I said, are we doing any business with that company, and he said not that I'm aware of. I went to our city manager and said are we doing any business with that company. They have submitted a proposal. Had I not done that, just based on a conversation, I would have violated this because I would have never disclosed that. I didn't know that that company had submitted a proposal into our city.

MR. SCHERER: Why wouldn't we just add, when we learn of it? Or when you learn of it.

COMMISSIONER DE JESUS: Again --

MR. SCHERER: -- whether it's 10 days or whatever, but you learn of it later, you disclose it.

COMMISSIONER DE JESUS: Ms. Rorapaugh and then Mr. Fink.

MS. RORAPAUGH: But if the President of a company comes and tells you about his products, he is not a lobbyist. He is not being compensated as a lobbyist. He is a principle of a company, and one of the things about this is, there a difference between a paid lobbyist and the principle of a company coming to see you, and I would say that there is.

COMMISSIONER DE JESUS: I didn't know this individual from Adam. He could have very well been a lobbyist and I wouldn't have known the difference.

MS. RORAPAUGH: And I think if we recall, in the atmosphere of when we first went into this language, and I agree with you, it needs to be tightened up. It was because it had come to our attention through newspaper reports, etc., etc., all of us here, that we seemed to be -- certain lobbyists seemed to have a certain amount of access to Commissioners or public office holders that the common citizen does not enjoy, nor necessarily do other lobbyists enjoy, because of old and past political and personal friendships, and this language was initially looked at as a way to look at, to make sure that if inappropriate conversations or lobbying occurs in the pack of these personal relationships and friendships and regular lunches or whatever it maybe, that it

would be reported. I understand we haven't got the perfect language, but that is what we were doing.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: First of all I agree with you completely. An employee of a company is not a lobbyist. That is where Dade County went off, but maybe the way to tighten this up is to use the word knowingly somewhere in this, because if it's unknowing, as you first report, I don't think you could be held to the fire, but at some point in time, once you realized what is going on and then you disclosed it, so Rob is there a way to add the word knowingly into this sentence?

MR. TEITLER: Well, the third line, to further promote full and complete transparency, County Commissioners must disclose any and all lobbying that knowingly occur. The third line of C or something of that nature.

COMMISSIONER DE JESUS: And this actually says or their principles or employees, so again that President of that corporation would have been --

MR. WOLFE: Well, knowingly is, I think the phrase.

COMMISSIONER DE JESUS: Yes. That is the key. Knowingly makes a difference.

MS. RORAPAUGH: And I think we put telephonic and electronic media, because we had Commissioners come in and testify that lobbyists were literally texting and blackberrying Commissioners on the dais.

COMMISSIONER DE JESUS: So if a Commissioner discloses -- okay.

Are we good with the knowingly language?

MR. WOLFE: Absolutely.

MS. RORAPAUGH: Yes.

COMMISSIONER DE JESUS: Thank you. If a Commissioner discloses a lobbyist, and that lobbyist is texting that Commissioner during a meeting, that is irrelevant. They have disclosed it already. How do you then stop that? He is already disclosed that he is communicated with that lobbyist, he or she has communicated with that lobbyist.

(Mr. Scherer left the meeting.)

MS. RORAPAUGH: I would say that is a public record also, but that is not where the county attorney's office has fallen in the past. I consider e-mail, texting and what not, that is done to me, in my capacity as an Ethics Commissioner or Mayor or what not, that is public record. My response is a public record, and I think the law his still not caught up with that.

COMMISSIONER DE JESUS: So then you are saying, again, using that example, if we're trying to legislate that, the disclosure has been made. I have communicated with that lobbyist. You don't have to disclose again, I just received a text. You have already disclosed, so what are we accomplishing then?

Mr. Wolfe?

MR. WOLFE: Somebody that goes to Tallahassee once in a while is -- texting is a form of communication. Disclosure is what you want. Many times I get an opinion or an e-mail from an elected official, legislature, if I'm in the audience, where are you,

we're up. Don't forget to say this, or vice versa, and that is a regular form of communication.

COMMISSIONER DE JESUS: And you have disclosed it. That is the key.

MR. WOLFE: I think disclosure is what the key is.

MR. COLLADO: I'm sorry.

Sometimes I'm naive because I'm not of this world, but if I'm a sitting Commissioner, you know, talking about an issue, how many citizens would have access to that Commissioners phone number, to be able to text them? What does the Commissioner say --

MR. FINK: Everybody is the answer.

MR. COLLADO: Everybody, so the Commissioner says --

COMMISSIONER DE JESUS: My cell phone number is on my city card.

MR. COLLADO: I understand, but does the Commissioner now say look, I just got a text from this gentlemen sitting before me.

COMMISSIONER DE JESUS: No. That is what I'm saying. You have already disclosed communications with that individual. You don't, everytime you get a communication, you're not required to publicly disclose that, so what are we accomplishing with that in saying --

MR. BAKALAR: What do you mean you have already disclosed? What is what I don't understand.

COMMISSIONER DE JESUS: If Robin is representing a client before us, I'm going to disclose that I have had communication with Ms. Rorapaugh on this issue. So

if I have already disclosed that, she continues to communicate with me until I vote, after I vote. There is no further -- you don't disclose every time there is an issue.

COMMISSIONER SHECHTER: But if she is texting you while you are on the dais, shouldn't that be disclosed?

COMMISSIONER DE JESUS: You have already disclosed.

COMMISSIONER SHECHTER: That you have had contact with her yesterday. What if she is texting or e-mailing you while you are sitting there trying to decide an issue?

MR. BAKALAR: That is like saying a lobbyist only needs to sign in once. They come back every day.

MR. COLLADO: To be honest with you, as a public, I have a problem with that. If I am lobbying you and you disclose that I'm lobbying you and now I can text you and twist your mind in terms of what you have to opine on an issue I have interest in, I have a bigger problem with that than signing in somewhere and have it in some record downstairs.

COMMISSIONER DE JESUS: Then what do we do when a Commissioner steps off the dais and goes into the audience and asks Mr. -- Mr. Wyman motions to me, he is got something to say to me and I walk off the dais and talk to him as a member of the public and he tells me how he feels about that. Do I come up and disclose it.

MR. COLLADO: That is communication.

COMMISSIONER DE JESUS: We're not talking about lobbying. We're talking about communication.

MR. COLLADO: Exactly.

MR. WOLFE: You know, we talk about blackberrys. It used to be notes. It used to be somebody in the back room who went up or down --

MS. RORAPAUGH: Exactly, 1 or 2 or --

COMMISSIONER DE JESUS: I hear you. All I'm trying to do he is vet. What are we trying to accomplish with this language, because it sounds good, but think about it.

COMMISSIONER WEXLER: I think that, and Bob, you have to pull up and that was what Scott was trying, we were trying to pull up the lobbyist policy, because we modified it a little bit not too long ago. Lobbying is the art of influence, for pay or not for pay, and don't think that -- and part of the conversation we're having, and Scott was back there in our lobbyist registration data base, putting in different names, and we used a very large contractor who gets government business, that owns a company, and has four lead lobbyists hired for them, but I know I always meet with the owner or the co-owners of the company, and so we know they are profiting. We know if they get selected and they are trying to influence me, so I thought that we adjusted our lobbyist policy to require them to register, even if they worked for the company as an employee, or owned the company. Okay? I'm pretty sure we did that, and then Commissioner Rodstrom brought up about the fact that, but we have community groups. We might have the United Way. They might receive money or we might have homeowner associations who might also receive money which they did through Broward beautiful grants. Where do you stop it? Where do you stop it? I would say as a Commissioner, it's not just the paid lobbyist. Someone said about bundling. Was it you, Howard, about bundling money? When fundraisers are done for campaigns, many times it's not the

lobbyist who is doing it. It's the company that does a great deal of business with the county, that does the fundraising event, and so if they are not registering or they just get a free pass, you think the vote is being missed and I apologize for being too aggressive here.

COMMISSIONER DE JESUS: So again, we're back to that disclosure portion, with the telephonic or electronic communication. Let me recognize Mr. Teitler.

MR. TEITLER: I want to read section 1-2 (6) 2 (A), which I think the Commissioner may have been referring to.

Prior to engaging in any lobbying activities, whether or not compensation is paid or received in connection with those activities, each lobbyist shall, and then file the requirements.

COMMISSIONER WEXLER: Shall is will, and whether they are being compensated or not. There you go.

COMMISSIONER DE JESUS: Ms. Rorapaugh.

MS. RORAPAUGH: I know on the telephonic and the electronic communications, when the ethics subcommittee of the charter review commission went over this, their primary problem is exactly what we're looking at. There was a lot of communication going on between representatives of people who were going to benefit from a Commissioner's vote, and that Commissioner or said Commissioner on the dais getting ready to vote. That communication, in my eyes, is public record, but it is not treated as public record right now, so the next thing you have to do is disclose it. I would be -- I don't have the telephone number of every County Commissioner, that I can sit there and text them messages, so that is a public record because it is dealing with

expenditure of taxpayer money. It's dealing with setting policy for the county. If I'm texting or telephoning about a vote or doing those things, that is a public record.

How do you treat it like a public record?

MR. BAKALAR: I'm in full agreement. That is why we took it up to begin with. I don't think we should leave this --

MR. WOLFE: I realize this is a tough, tough thing. I mean it's -- we have an issue with the City of Fort Lauderdale. My cell phone is reimbursed by my employer. It's a public record access, but I'm not really embarrassed what is on here, but the chief of police in Fort Lauderdale, when there was a public records request, I think the city attorney denied access to his records, because he paid for it. Now we have another policy in our office where, maybe Lori doesn't pay my cell phone. I pay it and she gives me a small reimbursement for office related calls. Some attorneys do that. That is not a public record then. So this is emerging technology in emerging legal issues too. I would argue strongly if this was not a property appraiser telephone call, it's not a public record, even though I use it for business. There is that legal side of the argument too, but I understand everybody's concerns. I think it's a tough issue.

MR. COLLADO: I don't want to get into a situation of beating a dead horse. Could you repeat the definition, please?

MR. TEITLER: Of a lobbyist?

MR. COLLADO: Of lobbying incident and so on. If I understood correctly --

MR. TEITLER: Lobbying means communicating directly or indirectly, in person, by telephone, by letter or by any other form of communication, on behalf of any other person, as designed in C below, with any County Commissioner and member of any

decision making body under the jurisdiction of the Board, or any county employee where the lobbyist seeks to influence a decision to be made by the Board, a decision to be made by any decision making body under the jurisdiction of the Board, or a final procurement decision to be made by a county employee, appearing before the Board or other decision making body under the jurisdiction of the Board at a publicly noticed meeting does not constitute lobbying.

MR. BAKALAR: Could you define lobbyist? All of that pertains to a lobbyist.

MR. TEITLER: A lobbyist means an individual who engages in lobbying, as defined in 161(b), but regardless of whether he or she receives any compensation for such lobbying. Any individual who, in his or her individual capacity merely communicates with a County Commissioner, a decision making body under the jurisdiction of the Board of County Commissioners or any county employee for the purpose of self representation, without compensation to express support or opposition to any item shall not be required to register as a lobbyist. Additionally, lobbyist does not include any public officer, public employee or public appointee, when acting in his or her official capacity. Any employer, officer of a homeowner association, condominium association or neighborhood association when addressing, in his or her capacity as an employer, officer of such association, an issue impacting the decision or its member or any employee of a non-profit public interest entity when addressing an issue impacting a constituent (inaudible).

MR. FINK: Is that a run on sentence?

COMMISSIONER DE JESUS: Any further comment on C, C 1?

MR. FINK: Did we resolve this?

COMMISSIONER DE JESUS: I don't think there is any recommendation for change, other than adding knowingly.

MR. WOLFE: Any lobbying activities that knowingly occurs between themselves and lobbyists.

COMMISSIONER DE JESUS: There was no recommendation on the floor, other than clarifying the first part. The second part was just dialogue on what we mean by that, unless somebody has a recommendation.

MR. WOLFE: Okay. I recommend that we, to further promote full and complete transparency, County Commissioners must disclose any and all lobbying activities that knowingly occurs between themselves and individual lobbyists or their principles or employers outside of their County Commission offices. Then we can discuss the last sentence and how we want to craft that. This shall include communication by the form of telephonic, electronic medium.

MS. RORAPAUGH: I think that takes care of the gotcha.

COMMISSIONER DE JESUS: This shall include communicating by any form of telephonic or electronic media, when you go home and get a message on a computer.

COMMISSIONER SHECHTER: Strike out personal and impromptu.

MR. WOLFE: Yes. Just strike it out.

MR. FINK: Is that where you originally had knowingly, where Bob just put it?

MR. TEITLER: We're talking about the sentence after that.

MS. RORAPAUGH: I think if we knock out the personal and impromptu meetings, the knowingly, you don't even need that.

MR. BAKALAR: Knowingly is in the first sentence.

COMMISSIONER SHECHTER: The second line on C.

COMMISSIONER DE JESUS: Let's have him put it in the draft. We're going to get it back. Any further comments for one or two?

COMMISSIONER SHECHTER: How many days a week are you in your office?

COMMISSIONER DE JESUS: I'm far from a full time County Commissioner. I don't have an office. This is my office.

COMMISSIONER SHECHTER: I don't go into my office but I'm available 24 hours a day.

COMMISSIONER DE JESUS: So if you have a meeting tonight you're going to go in tomorrow and file your disclosure?

MR. FINK: Is it week a reasonable period of time?

COMMISSIONER DE JESUS: Someone said 10 days. Beyond that I'm going to forget about it.

MR. BAKALAR: How about x number of business days. That would actually make more sense.

COMMISSIONER DE JESUS: 10 business days?

MS. RORAPAUGH: Does that work for you? Would you remember?

MR. FINK: 10 business days is two weeks.

COMMISSIONER DE JESUS: I'm going to keep a recorder with me.

MS. RORAPAUGH: Commissioner, we don't want you in trouble.

COMMISSIONER DE JESUS: Ten business days?

MR. FINK: Ten business days is two weeks, calendar weeks.

COMMISSIONER DE JESUS: How about 10 business days or prior to voting on the conflict? I mean if it's 10 business days, I have got to disclose it verbally or in writing. I would be foolish if I vote on something like that without disclosing it, so I don't know that the time limit is going to drive the disclosure. We want it disclosed. We obviously don't want six months either, when somebody brings it to your attention, but --

MR. COLLADO: Why don't we just put before voting?

COMMISSIONER DE JESUS: Because that could go on forever. I think you need to disclose it. There was a meeting that you had that the public should know about it. That is my opinion.

MS. RORAPAUGH: Ten business days or prior to voting on a matter if it falls within that 10 business days. Does that make sense?

MR. FINK: I think 10 business days is too long to make a disclosure, because you could vote with this those 10 days.

MS. RORAPAUGH: Yeah, but if that vote comes before you, before the commission before those 10 days run out, you can have language that says --

COMMISSIONER SHECHTER: You can have disclosure anyway.

MS. RORAPAUGH: I understand what you are saying, Ken. It's true. If I'm a smart lobbyist, I'm not going to do anything until the day before the vote, unless we say or prior to the vote if it falls within, before the requirement.

COMMISSIONER DE JESUS: Is everyone okay with that.

MR. WOLFE: Ten business days, or prior --

MS. RORAPAUGH: -- or prior to the vote.

COMMISSIONER DE JESUS: Rob, do you have that language?

MR. TEITLER: Could I read you what I wrote?

COMMISSIONER DE JESUS: Yes, sir. Please.

MR. TEITLER: The disclosure shall be made within 10 business days or prior to voting on a matter that maybe the subject of that meeting.

MS. RORAPAUGH: That falls -- you want to encase it, a vote that comes before those 10 business days.

COMMISSIONER DE JESUS: Or prior to a vote on the matter that was the subject of that meeting.

MR. WOLFE: Prior to the matter in question.

(Mr. Collado left the meeting.)

COMMISSIONER DE JESUS: We still have a quorum. Okay. Any other comments on 3 C, 1, 2? No further questions being heard or comments, I need a motion to approve, as amended.

MR. WOLFE: So moved.

COMMISSIONER SHECHTER: Second.

COMMISSIONER DE JESUS: Moved by Mr. Wolfe, second by Commissioner Shechter. All in favor signify by saying aye. Any opposed same sign. Everybody doing okay?

MR. WOLFE: Yes, sir.

COMMISSIONER DE JESUS: Moving right along. 4, honest services. 4 A.

Any thoughts, comments, questions or concerns on 4 A?

MR. WOLFE: I think that was my suggestion. I think I plagiarized some language off a House Bill that Ari was doing or Dan Gelber was doing, and it was to keep us in the loop, contingent upon you is Supreme Court ruling on the matter, and any changes in US code or Florida statute. That was my intent.

(Mr. Collado returned to the meeting.)

COMMISSIONER DE JESUS: We don't know what the Supreme Court is finally going to rule on that interpretation.

MS. RORAPAUGH: I can give you an idea.

COMMISSIONER DE JESUS: Any other thoughts, comments on 4 A or B?

MR. FINK: I move A and B.

COMMISSIONER DE JESUS: There is a motion on the floor to move 4 A and B.

MR. WOLFE: Second.

COMMISSIONER DE JESUS: Second by Mr. Wolfe. Any further comment? All in favor signify by saying aye. Any opposed, same sign. 4 A and B stands.

Section 5, solicitation and receipt of contributions. A, charitable contributions and fund raising. Members, do you need a minute to read?

While we do that, I have received several questions on defining the fund raising portion of that. I don't know if anybody we could change the language to -- we're talking about fundraising for charitable contributions in that section, and under B, we're talking about fundraising for campaign contributions.

MS. RORAPAUGH: May I make a recommendation?

COMMISSIONER DE JESUS: Ms. Rorapaugh.

MS. RORAPAUGH: Charitable contributions, solicitations and campaign contribution solicitations, so that you are dealing with -- you subject both of them.

COMMISSIONER DE JESUS: All right. Under A, under 5 A, it reads charitable contributions and fundraising.

MS. RORAPAUGH: Oh, I got you.

COMMISSIONER DE JESUS: And I think the confusion is, we're talking about fundraising for charitable contributions. It seems like, it almost reads like its two separate issues. Does that make sense to you all?

MS. RORAPAUGH: How about charitable contribution, fund raising --

COMMISSIONER DE JESUS: Take out and --

MR. FINK: Just take out and?

COMMISSIONER DE JESUS: Any input on section 1? Any input on section 2?

We need to designate a county department. Again, I think when we talk about records, to me that says if the clerk, but I don't -- regardless, we need an answer from the county. Does everybody agree with that? Does it matter who does it? Somebody has to do it, and we need to define it in here.

MR. WOLFE: Do we have to define it or do we site it as, filed for public inspection with an agent or -- designated by the county administrator, because that might change. It might go to the inspector general. It might go to the county attorney. It might go to --

COMMISSIONER SHECHTER: It has to go somewhere.

MR. BAKALAR: I just want to again disclose that I work for a charitable organization Commissioners have fundraised for. I'm staying out of this conversation.

COMMISSIONER DE JESUS: I'm good. Is everyone in agreement we change that language throughout, rather than designate a department?

MR. WOLFE: I think it means having flexibility because --

COMMISSIONER DE JESUS: Rob, consistent throughout the document, wherever it says designated county department, that you insert that language.

MR. TEITLER: Could you repeat that language?

MR. WOLFE: With a county department, designated by the county administrator. Is that throughout?

COMMISSIONER DE JESUS: Yes. Wherever it says designated county departments.

Section 3? No further comment.

Section 4? Hearing no comments or recommendations for section 5 A, 1, 2, 3 and 4, other than those noted by the county attorney --

MR. FINK: Moved.

COMMISSIONER DE JESUS: Moved by Mr. Fink.

COMMISSIONER SHECHTER: Second.

COMMISSIONER DE JESUS: Second by Commissioner Shechter. All in favor signify by saying aye. Any opposed, same sign.

B, campaign contributions and fundraising.

Again, I would recommend you strike and, campaign contributions fundraising. In our discussion on this section, we had debated whether we could limit an elected

officials from raising funds for another elected official, another candidate. Do you all remember that debate? And in that debate I believe it was opined, Mr. Teitler, unless -- correct me if I'm wrong, that it would be a violation of their constitutional right, for us to say you cannot raise campaign contributions or funds for another elected official.

MR. TEITLER: You get into a first amendment issue.

COMMISSIONER DE JESUS: We pulled that issue because of that, but at one point I believe we were discussing -- could we require the disclosure of that. Now we may not say that you cannot raise money, but again, the whole debate came because we want to know where the money was coming from, so is there a disclosure -- we don't have anything in here right now that says you must disclose what you raise for another candidate. Is that something that we intended to insert in here or should we insert in here? We debated it and dropped it and it didn't end up in the language.

Ms. Rorapaugh.

MS. RORAPAUGH: I think so, and right now, the federal election commission requires the candidates addendum their reports with who solicited checks, like if a bundler bundles money. We know it can be done and the technology is there to track it, so if I'm elected official A and I'm raising money for -- I'm bundling checks for presidential candidate so and so, I think there should be some way for them to disclose that they have raised that money and here is who they raised that money from.

COMMISSIONER DE JESUS: Mr. Wolfe, I apologize. You were next.

MR. WOLFE: That is all right.

I mean I'm open for any discussion on it, but I do think current state law is pretty sufficient with finance disclosure and campaign activity. I mean, my Commissioner just

went through a couple of weeks of bad press over campaign expenditures and things like that, and obviously the papers have a handle on that and I think state law is sufficient.

COMMISSIONER DE JESUS: So if you are -- using your Commissioner as an example, since you did, if he hosts a campaign fundraiser for another elected official, is he required to disclose --

MR. WOLFE: Not unless he uses his funds.

COMMISSIONER DE JESUS: Okay. So he wouldn't have to disclose who gave there.

MR. WOLFE: Not unless there was an in kind contribution or something that fell under the law, like you did a fundraiser for somebody and have in kind donations -- there is current law that says that. I don't know if we need --

COMMISSIONER DE JESUS: I'm just going back to the discussion we had. We dropped that issue, we dropped the issue that legally we can't require them to disclose -- we can't stop them from raising funds, but we also discussed the disclosure part because you all know the process.

I do a fundraiser for Carl and I invite all the same people that does business with our city, and they contribute x amount to that evening, and then Carl in turn hosts a campaign fundraiser for me, and he invites all the same people, but there is no disclosure there, so how do we track, again, the disclosure isn't saying it's illegal, you can't do it. We realize that it's legal and they can do it. The disclosure is so the public knows, here is who is contributing to that campaign, either directly or back to that same phrase or indirectly. I don't care where we go, but I think we discussed it once it was

opined that we couldn't prohibit them, we dropped the whole issue, and that part is not in there.

COMMISSIONER SHECHTER: In your example, Neal, when you do a fundraiser for me, and you haven't done one.

COMMISSIONER DE JESUS: Right. Hypothetically.

MS. RORAPAUGH: Why not?

COMMISSIONER SHECHTER: But when you do that, who does the disclosure? You or me?

COMMISSIONER DE JESUS: In this case, we're saying me.

COMMISSIONER SHECHTER: You would have to disclose that you raised funds for me? I would have reported those funds when you turned them over to me.

COMMISSIONER DE JESUS: But you're not disclosing that I held that fundraiser for you to disclose those, so this is under campaign contributions and fundraising for the County Commission, for me specifically. Not for you.

COMMISSIONER SHECHTER: So then you have to disclose who sponsored the fundraiser? Is that what you are saying?

COMMISSIONER DE JESUS: No. I'm saying -- I'm not saying either at this point. It's open for debate. What I'm saying is the discussion here was, I'm doing it through me, for you.

COMMISSIONER SHECHTER: Yes. Okay.

COMMISSIONER DE JESUS: And therefore, should I be obligated to disclose who came and gave at that event, because it's just an indirect contribution. I'm still involved. I'm still in elected office. I'm still soliciting funds. These are the discussions

we had. This isn't Neal's discussion, but we dropped it. I'm saying, before we go on, it's not in this draft, and we voted that we couldn't -- it was opined we couldn't do it legally. We didn't say you can't do it, but the baby got thrown out with the bath water.

Ms. Rorapaugh.

COMMISSIONER SHECHTER: But you didn't have to disclose you held a fundraiser.

COMMISSIONER DE JESUS: I should disclose who gave me money for you at that fundraiser, because things are going to be bundled to me -- through me to you.

COMMISSIONER SHECHTER: Would that apply only to elected officials or would it apply to anyone who does a fundraiser.

COMMISSIONER DE JESUS: This is for elected officials. That is what we're addressing here.

MS. RORAPAUGH: For County Commissioners.

And Commissioner Shechter, one of the reasons is, if you -- unfortunately or fortunately, if one could peer into all the money raised in politics in Florida out of Broward County, one would probably find five or six elected officials associated with almost all of those large contributions, and that is good for Broward County in many ways. It's very good for those elected officials, but they tend to go to the same people to write 15 checks, and their $500 check into their campaign account, so this is a way for the public to be able to track that. It's not to say its good or bad, but it to disclose it.

COMMISSIONER SHECHTER: By my point is, is it only elected officials that do that? There are many, many business people who do the same thing.

COMMISSIONER DE JESUS: We're not writing a code for business people.

COMMISSIONER SHECHTER: Well, I question then, should their candidate or should the official have to report that he received these checks at an event, because why would you limit it only to elected officials?

MS. RORAPAUGH: Because this ethics code is only for the County Commissioner. In federal election code today, under McCain Finegold (phonetic spelling), you have to identify bundlers, so if Robin Rorapaugh wrote a $500 check to, you know, Senator Kendrick Meek's campaign, but gave it through Bob, as unlikely as that maybe --

MR. WOLFE: Very unlikely.

MS. RORAPAUGH: -- my contribution would have a notation in the (inaudible) report, Bob Wolfe, came to the campaign via Bob Wolfe, but we're not -- we can only, as has been opined many, many times, we can only -- our jurisdiction is limited to the County Commission, and we constantly are trying to extend it, but not to candidates.

COMMISSIONER SHECHTER: And Bob says there might be a constitutional question involved.

COMMISSIONER DE JESUS: Mr. Wolfe.

MR. WOLFE: Well, the only thing is, we would be adding regulations only applicable to Broward County commission races. It is not consistent with state law. I know it a feel good thing and all that, but I really don't think election -- campaign log disclosure is that (inaudible) of a deal, for me to understand. Maybe for the public it is, but I can open somebody's report and figure stuff out real quick.

MS. RORAPAUGH: May I respond?

But Bob, as long as I have been in Broward County, and I have been here since 97, 98. I have been in Florida since 96. I can suspect I know who raised this amount of money in Miami Dade for candidate A, but if it's a County Commissioner doing it, they should report I raised this money from these people for this politician.

COMMISSIONER DE JESUS: Well, I think we had, and I don't remember which Commissioner it was, but somebody told us if you stop that, if you try to stop my right to raise money for officials, you will get challenged.

MS. RORAPAUGH: And we're not trying to stop their right.

COMMISSIONER DE JESUS: So we steered away from that, the county attorney opined, but we just got away from this other -- Commissioner Wexler.

COMMISSIONER WEXLER: I called Mr. De Jesus today, and I read this from cover to cover last evening, and it was one of the things that absolutely popped out at me. Nobody can stop somebody, as the attorney opined, from being, from hosting a fund raising event. However, as a County Commissioner, the people that are going to be invited to that event are those that either lobby us or do business with the Board of County Commissioners. If this is about transparency, then I would expect their needs to be a mechanism that you identify that we, the person who is hosting or raising funds for that other candidate, to disclose, and it's not always evident in the candidate's campaign report, because many times the candidate says how much did it cost and reimburses the host, and so -- or pays directly to Hugh's catering or the restaurant or whatever it is, and so you never see the County Commissioner's fingers on it or in it. That is the transparency piece that I think should be --

COMMISSIONER DE JESUS: Commissioner, at what level do you require that? At the county level? At the state level? At the federal level? At what point do we say, we want to know if you are raising funds for US Congressman --

MS. RORAPAUGH: Or what funds you have raised for US Congressman. I think Lois will -- Commissioner will agree. There are office holders who have, they are gone to people. On a County Commission level, those go to people tend to be contractors with the county. Now there is nothing wrong with having go to people --

COMMISSIONER DE JESUS: But are we talking about for the County Commission? Are we talking about raising funds for other County Commissioners?

MS. RORAPAUGH: For other elected officials.

COMMISSIONER WEXLER: It's County Commissioners being part of -- I don't know. You have to make this decision.

COMMISSIONER DE JESUS: For other County Commissioners?

COMMISSIONER WEXLER: No.

MS. RORAPAUGH: No.

COMMISSIONER WEXLER: Any elected or people that want to be in office, campaign, correct. I mean, there are a lot of campaigns going on.

MR. WOLFE: I have a legal question.

COMMISSIONER DE JESUS: Mr. Teitler, Mr. Wolfe has a question.

MR. WOLFE: Maybe you can. I don't know. How can you -- I'm running for the state house or I'm doing a ballot initiative in Florida, and I'm coming into ask my friends to do a fundraiser or for the party or whatever, and under state law you don't have to do

it, disclose -- I mean you only have to disclose what Florida statute 106 or whatever it says. How can you --

MS. RORAPAUGH: We can always be more stringent then the state rules.

MR. WOLFE: But doesn't that run the conflict with other people's campaigns, if I'm running for office in another county and you do the fundraiser for me? I saying this doesn't apply to me.

MS. RORAPAUGH: But I know as the office holder, that I did an event or I did a mailing or I did solicitation, and I created that contribution, so I know I have done it, so I can report that I did it. I raised $20,000 for Kelly Skidmore, here are the people that gave me checks for that fundraiser, or, you know, your boss is famous for raising political money for other candidates, and she is wonderful at it. She does it for democrats. I'm happy about it. But she should be disclosed -- if she was a County Commissioner still, and if this is extended to constitutional officers, she should have to report what contributions she pulled in on behalf of other candidates, because not your boss in particular, but somewhere in this county, there are elected officials who go to the same 10 vendors for every campaign they raise money for, and you know what, that means those 10 vendors have an inordinate amount of favors with that elected official.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: If I understand, I think I'm hearing two different things. If I understand you correctly, you are saying it should be disclosed as long as it's an elected official at any level, that you are raising funds. If you were throwing a party for a County Commissioner, we are all in agreement that would fall within our purview, and Lois would have to disclose, but --

COMMISSIONER WEXLER: Whoever Lois is raising money for, at any level, either in office or out of office, I'm going to the same stable time after time. It's about me.

MR. BAKALAR: It doesn't matter who the candidate is. It's the behavior of the County Commissioner.

COMMISSIONER WEXLER: Exactly. That is what I think this is all about.

MR. FINK: Well, that is what this is about. Therefore, if that is what this is about, it has to be disclosed by the person raising the money.

COMMISSIONER SHECHTER: That is what she said.

MS. RORAPAUGH: But remember --

COMMISSIONER DE JESUS: He is wrapping it up for us.

MS. RORAPAUGH: Commissioner, on her quarterly --

MR. FINK: Am I restating the obvious here?

MS. RORAPAUGH: On some mechanism, some reporting mechanism, in a quarterly manner will say, I raised, I solicited such and such amount for this candidate, here are the checks. That is about what we're talking about.

COMMISSIONER WEXLER: I don't know what the form looks like, but whatever it is.

COMMISSIONER DE JESUS: I just wanted to table that issue. It was a great dialogue because we dropped it from our draft.

MS. RORAPAUGH: Because we haven't gone back to it.

MR. FINK: You said you want to table it?

MS. RORAPAUGH: No. He wanted to bring it to the table.

MR. FINK: Okay.

COMMISSIONER DE JESUS: We're going to finish this issue and then take a five minute recess so people can go wash their face. All right. We need, Rob, could you help us with some language?

MR. TEITLER: So for clarification, you want to know who attended and how much they gave?

COMMISSIONER DE JESUS: I think their needs to be a quarterly disclosure that says here is who I did a fundraiser for and here is who contributed to that fundraiser. Is that the consensus? Any opposition to that we need to further vet? Okay.

Any further comments to B 1? B 2? B 3?

MR. COLLADO: I have a question on B 3.

Does that mean within the scope, at any time, 24/7, or could they work on campaigns after their work outs?

COMMISSIONER DE JESUS: That is a good question.

I think what he is saying is you can't use county staff during county business hours or at any time.

MR. COLLADO: I cannot go with Lois, say on Saturday morning, if I work 9 to 5, Friday to Monday, whatever.

MR. FINK: This, really is the last three words of this sentence is what it's talking about. It says any government owned building. That defines this whole paragraph, saying it only applies to government owned buildings.

COMMISSIONER DE JESUS: I agree. I think --

MR. FINK: So if you go on Saturday morning to C B Smith Park, it's not a government owned building. It's a government owned park.

MR. TEITLER: Monica mentioned there is a county policy.

COMMISSIONER DE JESUS: Wait a minute.

Mr. Teitler.

MR. TEITLER: Monica mentioned there is a county policy addressing this.

MS. CEPERO: There is a county policy that speaks directly to this issue, and I don't recall the exact language --

MR. FINK: Why not?

MS. CEPERO: I don't, but it does say you cannot hire or utilize county staff for jobs outside, like you can't hire someone to go paint your house, even though you pay them.

COMMISSIONER DE JESUS: Folks, I need everybody to kind of reel this back in and let's be recognized so we don't have shooting from everywhere, because we're going through these issues and we're voting on them and I want to make sure we don't miss anything. Help me out a little bit.

Mr. Fink.

MR. FINK: Does that mean that Commissioner Wexler cannot utilize her personal staff on weekends? Is that what we're addressing here? Are we trying to prohibit that?

COMMISSIONER DE JESUS: That is what this says here, and again I don't know what the county code policy says. To me it's irrelevant. What we want it to say, we need to say it here or if we're okay with that language, we reference it. I read this

and it says you cannot use county staff. It doesn't define when. That means you can't use them. Not during business hours, not after business hours. It says you can't use them. I would agree with Commissioner Shechter saying that second part is not one thought. It's a separate issue. The floor is open for comment.

Mr. Bakalar.

MR. BAKALAR: I agree. There should just be a period there, take out comma and its two separate sentences.

COMMISSIONER DE JESUS: Mr. Wolfe.

MR. WOLFE: Yes. Just put a period after contribution. Start a new sentence with campaign or political contribution, so if you made --

MR. FINK: Now, is C B Smith Park a government building?

COMMISSIONER DE JESUS: If we're going to change that we need to change it to government owned property.

MR. FINK: Thank you. That is all I'm asking.

COMMISSIONER DE JESUS: But again, that is separate and above that first part, so we're settled on the first part; right? Do we need to change that to government property? I think about we take that in context, and I believe Mr. Wolfe, if I'm correct, that was your statement, that people shouldn't be walking around here passing checks to each other, you know, by the way I just met with you on this issue and I forgot, here's a $500 campaign check that I brought to you. It doesn't pass the smell test. You don't mix business with campaign financing was the intent.

Mr. Collado.

MR. COLLADO: The question I raised was, what is this period we're trying to accomplish with this item, with item 3? Is it restricted to government owned property, buildings, parks, what have you or restricting Commissioners from using their own staff to do whatever. What is the --

COMMISSIONER DE JESUS: its two separate parts. The first part is you can't use your county staff period.

MR. COLLADO: Whether it's in the building or --

COMMISSIONER DE JESUS: Period.

MR. FINK: Then it should be four.

MR. TEITLER: I will make that four.

MR. FINK: That should be number four.

COMMISSIONER SHECHTER: That should be number four, not part of three.

COMMISSIONER DE JESUS: Campaign and political should be number four, and then the second part to your question was, inside this government building, not county parks, not the library, you know, then we say restaurants. The intent of that conversation was don't come in my office to do business, and while you are here, by the way, I want to invite you to this fundraiser, I'm doing this fundraiser, here is a check.

MR. BAKALAR: That would be number four.

MR. FINK: Now I'm still unclear, is it government owned buildings or government owned property.

COMMISSIONER DE JESUS: As read, unless there is a recommendation that receives unanimous support.

MS. RORAPAUGH: I think building covers it. You can see why park and what not -- a lot of political campaigns have events at public parks.

MR. FINK: Okay. I just wanted clarification.

COMMISSIONER DE JESUS: Any questions or comments on number C, letter C, 5 C?

MR. WOLFE: That was mine that Ilene, that Commissioner Lieberman talked about last week. That was just in reference to an occasional waiving of contributions. That is just a good language thing. The one that I flagged on that, they haven't received any contributions to yet, but it did get flagged, and that is just a transparency thing. If the county is going to ask for a donation from somebody or put it on the agenda and accept it, it's all --

COMMISSIONER SHECHTER: Maybe we ought to --

COMMISSIONER DE JESUS: Commissioner Shechter.

COMMISSIONER SHECHTER: Maybe we ought to use the same language in prohibiting the County Commission from changing the IG section. That way we might want to put in here the County Commission can be prohibited from amending --

MR. WOLFE: Oh, you are talking about using the same language later on for prohibited? Yes, you could.

COMMISSIONER DE JESUS: Any concerns or comments or amendments on C?

MS. CEPERO: I just wanted to clarify something on point 4, that Mr. Wolfe -- that section C, that agenda item in question was to just waive the individual having to come back after every individual check.

MR. WOLFE: That is okay. I still think it's wrong.

MS. CEPERO: I just wanted to clarify that.

MR. WOLFE: I know. I told her that.

COMMISSIONER DE JESUS: Okay so we're saying that the provision, if I understand correctly, is to disclose who is giving, and we're saying don't waive that. Let the public know who is giving.

MR. WOLFE: If it's a lot of paper work --

COMMISSIONER DE JESUS: Let me ask you a question.

Does that mean if I'm a contributor and I'm going to donate $500 a month, are you saying you want me to come back to the agenda, waive me having to appear?

MR. WOLFE: No. You don't have to appear. It's on the agenda item.

MS. RORAPAUGH: It's usually consent calendar.

COMMISSIONER DE JESUS: Okay. So I thought I heard you say because they didn't want to have to come back.

MS. CEPERO: No. What the intent of that agenda item was, was to just not have to come back for individual checks, individually.

MR. WOLFE: And I did agreed with her opinion on it.

MS. CEPERO: They could do that on (inaudible). I was just clarifying for the Chair.

COMMISSIONER DE JESUS: I understand. So the item has to be there but the person doesn't have to come back. The item has to come back every time.

MS. CEPERO: Correct.

COMMISSIONER DE JESUS: Good.

Any problems with C?

COMMISSIONER SHECHTER: That is the way you want this, Bob?

MR. WOLFE: Yes.

COMMISSIONER DE JESUS: Okay.

Looking at section 5, A, 1, 2, 3 and 4, B, 1, 2, 3 and 4 as amended and C.

MR. WOLFE: And there maybe another one coming.

MR. TEITLER: Disclosure of the campaign, the one we discussed.

COMMISSIONER DE JESUS: Any objections to those sections, as amended? Is there a motion?

MR. WOLFE: Moved.

COMMISSIONER DE JESUS: Moved by Mr. Wolfe.

COMMISSIONER SHECHTER: Second.

COMMISSIONER DE JESUS: Second by Commissioner Shechter. Any further discussion? All in favor signify by saying aye. Any opposed, same sign.

It is 7:33. Let's call a recess until 7:40.

(A short recess was taken.)

COMMISSIONER DE JESUS: The time is 7:40. I'm calling the meeting back to order for the Broward County Ethics Commission.

We're on number 6, procurement selection committee. 6 A, the floor is open for any comments, amendments, suggestions.

MR. WOLFE: Well --

COMMISSIONER DE JESUS: Mr. Wolfe, and if I could, remember we have two separate options here. 6 A and B or 6 A, 1, 2, 3, 4 and B. Those are two separate areas.

MR. WOLFE: Is the issue, really first, whether they are going it keep any on or not or off, and that sort of depends on where we go with it.

COMMISSIONER DE JESUS: I agree, Mr. Wolfe. Let's table that issue first. Right now there is absolutely no -- it's a prohibition, and you don't participate and the other option is you do, in a limited capacity and I believe it was up to two, randomly selected, etc., etc.

Is there a consensus that option 1 is the one we need to discuss, and that is complete prohibition.

Mr. Bakalar.

MR. BAKALAR: I just need to ask a question first.

For procurement, at what point are all Commissioners covered by the cone of silence?

MR. FINK: They are not.

MR. BAKALAR: They are.

MR. FINK: No, they are not. They can initiate a call to a vendor.

COMMISSIONER DE JESUS: I think the fair answer is, they are but it's a one way cone of silence. The cone of silence applies to the vendor. It doesn't mean that a Commissioner cannot, through the county, administrator, initiate contact with that vender.

MS. CEPERO: They can do it direct.

COMMISSIONER DE JESUS: They can do it direct?

MS. CEPERO: Absolutely.

COMMISSIONER DE JESUS: Okay. So it's a one way cone of silence, and we can address that as well.

Mr. Wolfe and Mr. Fink.

MR. WOLFE: I think my comment that I made when the Mayor was here, that if this body chooses to yank them off procurement commissions totally, then I thought we ought to discuss removing the cone of silence because it's a paper tiger to a degree, and the Mayor, as you know, is addressing -- he sort of wants to keep one or two on there I told him I would put it out there for discussion, but I didn't think this committee was supporting that.

COMMISSIONER DE JESUS: Let’s go back to the original discussion.

The first issue was complete prohibition.

Is there support, overall consensus, majority consensus to seek complete prohibition?

COMMISSIONER SHECHTER: I favor A and B.

COMMISSIONER DE JESUS: I'm sorry.

COMMISSIONER SHECHTER: I favor A and B.

COMMISSIONER DE JESUS: 6 A and B, the first option, complete prohibition.

MR. FINK: I favor complete prohibition.

COMMISSIONER DE JESUS: Mr. Fink.

Anybody else in favor of complete prohibition?

MS. RORAPAUGH: I am.

COMMISSIONER DE JESUS: Ms. Rorapaugh.

Anyone else in favor of complete prohibition versus a limited number?

MR. BAKALAR: I think we just need to draw – I am not necessarily in favor of complete prohibition. I think it's the process itself that we need to look at because as we discussed at that point, you can be an unethical staff person. You can be an unethical -- anyone on this committee; just by -- I just don't want anyone to think by prohibiting any Commissioner, that you have made the process clean, necessarily.

COMMISSIONER DE JESUS: And we realize that.

Mr. Teitler, Mr. Collado, Mr. Fink.

MR. TEITLER: I'm thinking what you say about unethical staff members, I think if we went with 6 A and B, the first one, I think B would have to be modified because I don't think that we should be controlling the behavior of the staff members, so the whole purpose is to control the behavior of the County Commissioner, so I would modify -- if we went with the first A and B, ranking of vendors shall be made in good faith, but I would eliminate by county staff because that is really not our function, to control the behavior of county staff.

COMMISSIONER DE JESUS: Well, I think -- we're right back to that conflicting opinion.

MR. WOLFE: Couldn't we also put in there -- we could put in this ordinance that, the Board of County Commissioners shall enact within 90 days of this ordinance, a code of enforcement to every employee of Broward County that shall include gift bans, employment bans, etc., etc. We could put they shall do that in this ordinance.

COMMISSIONER DE JESUS: And that has been the recommendation from the get go, but if you listen to what Mr. Bakalar is saying, what I hear is there still needs to be a process. Somebody has to do it, and banning County Commissioners is not going to fix the problem. So you have got to -- what are we trying to accomplish? You take it from the County Commission and give it to county staff. There still needs to be something that says the same accusations, the same perception, the same reality is not going to occur, just with different players.

Mr. Collado and then Mr. Fink.

MR. COLLADO: I don't have a problem with County Commissioners sitting on selection committees. My problem still is that hearing from some of the Commissioners, I still don't have that there is a complete guarantee of independence on the people that form the selection committees, that there is an underlying fear of, if I vote the wrong way, is this going to cost me. I would like language, whether we do one, two Commissioners, it doesn't really matter. I agree with Mr. Bakalar, that the process has to be cleared and that absolute guarantee independence is taken up in some type of language in this thing, because I have a genuine concern that they have the same independence we have had in this committee, you know.

COMMISSIONER DE JESUS: Mr. Fink.

MR. FINK: Two things.

Number one, it's not our job to fix the procurement process as it exists within the county because that is the function of the county administrator and that is not our charge. Our charge is to develop a code of ethics.

Number two, you have had Commissioners sit here and testify that sand bagging does take place and does go on, so if you have one or two Commissioners sitting on there, you're not going to eliminate sand bagging.

Number three, unless I'm mistaken, one of the things that is in the new proposed adoption from the county is that any code of ethics that is adopted by and for the Commissioners is going to be transferred to staff. Is that not --

MR. TEITLER: Where appropriate. They enacted a resolution saying that.

MR. FINK: And number three, being in business and being a procurement specialist for 30 or 40 years, we're the only entity, or the County Commission is the only entity in this entire county that has elected officials sitting on procurement committees, so there must be a reason why all the other municipalities and government agencies do not have elected officials sitting on procurement committees. That is not the way the process is designed to work. They have the final vote. They sit there as the Commission. Why should they vote on it twice? It's giving them, in effect, two bites at the apple. They sit there and have the final vote on any contract that comes before them. They are making the final decision. They have the right to question staff. They have the right to question the submitted back up. They have the right to question the staff's recommendations.

COMMISSIONER DE JESUS: Commissioner Shechter and then Mr. Collado.

COMMISSIONER SHECHTER: We don't, in Pembroke Pines, we never have a member of the Commission on the selection committee, except in three cases, and that is those people who report to the Commission, the city manager, city attorney, the finance director. If we were hiring one of those three, we would be on the selection

committee because we're the ones that are going to pick them, but anyone else, and the reason, the rational is exactly as Ken said. We're going to make the final decision. The staff is going to rank those people and we don't have to accept any of them. You talk about transparency. You can't control people, whether the Commissioners are on the selection committee or not. The opportunity for collusion or whatever is always there, with the Commissioners or without them, and as long as the Commissioners have the final say, the ultimate final say, that is the control you should be looking at.

COMMISSIONER DE JESUS: Mr. Collado.

MR. COLLADO: Again, for instance, no Commissioners on the selection board, committees, that is fine with me, but I want to again take up in the language is, that the selection committees are not going to be subject to fear when they make their choice, because I heard that over and over again, they have jobs to protect.

COMMISSIONER SHECHTER: Okay.

MR. COLLADO: You see what I'm saying, so basically what I'm saying, that the Commissioners in no way, shape or form, would get involved or question the decision making of the committee, however these committees came together. That is what I'm trying to get at, so they can operate and rank the possible vendors with complete --

MS. RORAPAUGH: Independence.

MR. COLLADO: -- independence.

COMMISSIONER DE JESUS: Mr. Fink and Ms. Rorapaugh.

MR. FINK: The point that I made in the paper that I wrote, the study that I did when I interviewed a former employee of the county who sat on the procurement committee, procurement department for 10 years, was that when Commissioners sat in

the room, it stifled the staff from issuing opinions or recommendations because they wanted to hear what the Commissioners said first, so by having Commissioners on the procurement committees, it prohibited the staff, who were the quote unquote experts, from asking the questions or even making pronouncements until they saw which way the wind was blowing, which Commissioners that were on the staff, and his recommendation is, and he is now the procurement director for the City of Coral Springs, no manner, shape or form does an elected official ever sit on a procurement committee. He was a former --

MR. COLLADO: No Commissioners sit on the procurement committees. Do the influence of the Commissioners still reach the committees?

COMMISSIONER DE JESUS: If you look at A, it says and shall not participate in any manner at committee meetings, so I don't know how far beyond -- it saying you're not going to be part of the selection process and you're not to participate in any of those committee meetings.

Ms. Rorapaugh.

MS. RORAPAUGH: And currently, the County Commissioners approve selection committees. There is a whistle blower act in Broward County, be it as weak as it is, and there is in the county charter, a provision that calls for non-interference of county staff by County Commissioners. Now, enforcement may not happen. Those type of protections are sort of quasi there.

MR. COLLADO: Can we then include language to say, because it says there, in the selection committee meetings, I want language to include --

COMMISSIONER DE JESUS: Well, I don't think we have a consensus yet that we're going to go with none period. We're not there.

MS. RORAPAUGH: He wanted to not do ex parte communications.

MR. COLLADO: You are independent, I select you.

COMMISSIONER DE JESUS: We haven't heard from any employees. We're heard from County Commissioners, but I can tell you as a government employee, it's real. I have sat on a selection committee with elected officials and felt the pressure to go with a vendor, that as a fire chief, I probably didn't feel was the best vendor to use, real or perceived, I'm in position of appointment, and the old adage is, you can be disappointed as quick as you are appointed.

MR. FINK: I like that.

COMMISSIONER DE JESUS: And it's an uncomfortable position to be in.

What I'm trying to balance, in my decision, and I will give you the floor in one second, with none or two, what are we trying to accomplish. The concerns have been two fold -- at least there have been plenty of concerns, but the theme throughout has been, in my opinion, what I'm hearing, there is an undue influence on staff, one, and the other consistent theme throughout has been, there is too much power in that process of having them get two bites at the apple. Not only am I going to vote on it when it gets to me, but I'm going to help ensure it gets to me by inserting myself in that process, and that is where the number of them came in. When a majority of them are on that process, it's coming and it's getting approved. The statistics showed us that. So what are we going to accomplish by putting two? Are we going to be solving any of those two concerns, the undue influence is still going to be there and so now there is a minority

number so we got rid of that, but if I realize as an elected official, many times when we're trying to pass something, we're counting votes. If I have an issue that he is near and dear to me or my constituents, I know that I have to have a majority of that Commission to come along with me, so if I'm the two that you up this time, does it or does it not behoove me to make sure that I do something that is favorable to the majority? Now I don't know. I am not saying that is what they do, but it's that appearance, once again, its tit-for-tat. I will get this one through. Next time you're up, don't forget me.

MS. RORAPAUGH: Exactly.

COMMISSIONER DE JESUS: So I don't know that we're going to accomplish. I'm leaning towards none. I think it's just cleaner.

Here's where I struggle.

We're trying to legislate something that I don't know how -- how do you say I want to make sure that employee is completely -- because I'm not convinced that there is not going to be some of that, we're shifting some of that power and politics to the staff now. It's going to be a whole other issue for the county administrator to deal with. What we're addressing here, at the County Commission level, I believe the county administrator is going to have to address at the county staff level, because now the lobbyist ain't coming to me. They are going to that staff member, and many lobbyists lobby staff members more than they do County Commissioners. So we're going to transfer that liability, so to speak, to them. What I'm saying is, from what I'm being charged with writing a code of ethics for, are we going to accomplish what we're trying to accomplish? I don't care if it sounds good or looks good or everybody is happy with

our decision. Are we going to be able to accomplish what we're trying to accomplish? And what we're trying to accomplish is the undue influence of a County Commissioner in this procurement process so that everybody has a fair share of doing business with the county, whether they hire a high profile lobbyist or whether they represent themselves, because they are a small businessman trying to get a break.

So that is why I'm leaning more towards none, but if you think that is going to stop the influence of a County Commissioner, I think we're kidding ourselves. It's going to be there, just not in that process.

Mr. Bakalar and Ms. Rorapaugh.

MR. BAKALAR: And I agree with you. It's not that I have a strong opinion that two is better than none. It's the process itself, if we coupled none with a stronger two way cone of silence, maybe that would be fine, but having been a county employee here, you get peppered with county speed requests, 50 thousand million questions that lobbyists will feed through the County Commissioners which, again, we're not making necessarily a clean process. I think maybe that would help.

COMMISSIONER DE JESUS: But I'm hearing if we eliminate County Commissioners, that there are some that feel that the cone of silence needs to be lifted.

Mr. Wolfe.

MR. WOLFE: Well, let me clarify what the statement, I mean, the code of silence -- I think a lobbyist can go in and talk to a County Commissioner on an up-coming agenda item or a project, but I think the County Commissioner absolutely ought to be 100 percent prohibited with some huge enforcement provisions from talking to a staff

member about it or trying to influence the county administrator or staff, that selection process. There ought to be an absolute no way talking to that procurement committee.

COMMISSIONER DE JESUS: Ms. Rorapaugh.

MS. RORAPAUGH: There is one another linkage to the none equals two.

If I'm a person doing business and I'm dealing with a selection committee that has County Commissioners on it and I lose, I'm not -- if I know I have to deal with that County Commissioner, for that matter staff, and it happens again in six months on something else, I'm not going to activate the process of redress, and that is what happens. People lose bids all the time that they should win in Broward County, and they don't say a word because they will never be able to get that Commissioner's vote again, if they raise cane about it the first time, so that is another reason why it's cleaner.

One of the problems with prohibition of interference from County Commissioners to employees in the charter is it had no enforcement and it has no teeth. We also have -- I mean it's not something we can deal with tonight, but we need to be thinking about it. We have a whistleblower rule in Broward County that might as well be Swiss cheese, and we could easily, easily, if not us, we could instruct the County Commission to adopt the federal whistleblower rules, and I think we can rewrite, again, a non-interference piece for County Commissioners to county staff, but without enforcement, they are going to thumb their nose at it like they do the charter language, the same effect.

COMMISSIONER DE JESUS: I can support no County Commissioners in the procurement process. At some point a County Commissioner has to have the ability to question staff on that recommendation. If not that County Commissioner cannot do --

they are voting on something blind. They haven't had a process to educate themselves, so maybe we identify that as after the recommendation, after that selection process is closed and staff formulates a recommendation, at some point, before it comes before me to vote, I have to be able to, as I do now in our system, go to staff, go to the city manager and say why this one versus that one. Where did you see the strength? Did anybody ask this question? I even go as far as calling some of the, some other municipalities that that vendor has done business with that they didn't list, and now I know I may disclose something that wasn't disclosed and I will bring that up at the issue, and there are times when I vote for staff's recommendations and there are times when I found something that they didn't find, where they want to pull the agenda item, or they then want to -- I will just vote against it, because it wasn't disclosed. I talked to three cities that they didn't list as references who said they went way over budget and way late, whatever that is. When I say I can support no Commissioners sitting on the selection process, I don't want to be misleading and say, and then we're done. At some point we have to identify when it's appropriate for them to be educated on what they want to vote on.

Mr. Fink.

MR. FINK: On the dais is when the elected officials get to question staff because the head of the selection committee and all the members are at that meeting in order to take questions from the Commissioners as to why they ranked. So if you want a process before that, I can understand that, or as you do, you go to the city manager and find out why the procurement committee did what they did, and he tells you from what

he read in the back up why it's there, but do you go directly to the procurement committee to ask them why they voted that way.

COMMISSIONER DE JESUS: I go to the selection committee. Once their recommendation is done -- I don't interfere while they are doing it because here's the thing. If you limit it to the dais, you better schedule three days for that meeting, because there is way too much -- you're looking through this kind of back up on each and every one of those and we're not going to -- you're not going to fully vet that because -- I mean, you are talking about making a serious decision on taxpayer dollars that is multi-millions of dollars, so to try to vet that upon the dais for the first time, you're going to extend meetings beyond anything that is durable.

MR. FINK: So let's put in a cone of silence that extends to one week or two weeks prior, have a cone of silence that exists until the selection is made and then that cone of silence could be lifted.

MS. RORAPAUGH: Right now don't they workshop it, Monica?

MS. CEPERO: Workshop what? I'm sorry.

MS. RORAPAUGH: Don't they workshop large procurement items and selections --

MS. CEPERO: No.

COMMISSIONER DE JESUS: I don't think they need to because they are in on the process.

MS. RORAPAUGH: How did they do that back in the day before they did that?

MR. COLLADO: I would lean towards no Commissioners, to have the committee deliberate up until the ranking and then a period of time where the Commissioners

voting on these things could then get informed as to why the ranking and why the particulars that want to be number one or first, as opposed to last, and give the Commissioners latitude to do the due diligence as to what constituted that ranking, whether it was price or whatever it was, but yes, give the Commissioners time it do their homework, but the period of deliberation has to be protected from undue influence.

COMMISSIONER DE JESUS: I think that is what I'm looking for. I just want to make sure I'm clear. I want to make sure the selection is solidified. They have closed the process, they have established their ranking. Here they are, one, two, three, we're turning it over to you. I don't want them involved prior to that because we might as well let them sit on the procurement process.

Mr. Fink. Ms. Rorapaugh.

MR. FINK: Doesn't that go to what I said before, that becomes the county administrator's job once the selection process is over, charge the procurement process as it exist to accommodate the new rules? That is not for us to legislate in a code of ethics. I agree with what you are saying. I'm just saying that would fall, in my opinion, under the purview of the county administrator to say there are no more Commissioners allowed to sit on selection committees, so I'm going to reorient the process and so that once the selection has been made, we will either workshop it or whatever they come to do in order to do it, but I don't know if that --

COMMISSIONER DE JESUS: Well, I'm not looking at defining how they are going to do it. I think we need to define what needs to be done, because that is what we're trying to legislate, and if we don't define, not how it's going to be done, what we want done. What we're saying is, if we're going to say that we don't want any County

Commissioners involved until after the ranking is completed, then we need to say that, and then how they do that and how they get involved, whether the county administrator workshops it or they do it individually, that is not what I'm talking about. I'm talking about we need to clearly define what we're saying, and I didn't want to say that I will support no County Commissioners without the understanding that at some point they can't do their job I have elected them to do without being this involved in the process, and then they are just taking someone else's recommendation on that multi million dollars project, and I can't support that.

MR. COLLADO: That is my position as well.

MR. FINK: So would you accept something in the form of a motion that says there will be no County Commissioners sitting on the procurement committee and once the selection process is completed and the final report has been issued, at that point then the County Commissioners should have the ability to try to ascertain --

MR. WOLFE: We can tweak here. If we take paragraph A and say and shall not participate or influence any matter of the procurement process until the committee recommendations are received by the county administrator.

COMMISSIONER DE JESUS: When you say take it, you are talking about at the end of paragraph A, instead of and shall not participate --

MR. WOLFE: -- or influence, in any manner, the procurement process until the committee recommends and the -- until the recommendations are received or submitted to the county.

COMMISSIONER DE JESUS: Do we have a majority or consensus that that is the direction we want to go before I start taking language? Okay. I just want to make sure before we start crafting language, that is what we have agreed on.

Thank you for joining us.

MR. COLLADO: Could I add, are we ready for language?

COMMISSIONER DE JESUS: Yes, sir.

MR. COLLADO: Could we add --

COMMISSIONER DE JESUS: Does anybody oppose to going in the direction of no County Commissioners with that caveat? Okay, we're good.

MR. COLLADO: Okay. Can I just add to Mr. Wolfe's language, recommendation, until the accommodations are ranked and submitted.

MR. FINK: No. Until the whole thing has been submitted.

MR. COLLADO: The whole accommodations --

MR. FINK: -- until the recommendation has been submitted. Not the rankings, the total recommendation has been submitted, because the rankings are part of the recommendation.

MR. COLLADO: Okay. Just as long as --

MR. FINK: You have five companies. They are going to say this is the company we select and the rankings of the others were B, C, D --

MR. FINK: The middle includes the ranking? Okay. I just wanted to know.

COMMISSIONER DE JESUS: There was a discussion -- Ms. Cepero.

MS. CEPERO: Yes.

I just wanted to say, you probably should talk about the wording of this as it relates to the latter part where it says until a recommendation has been submitted to the county administrator, because they don't get submitted to the county administrator. The selection committees are independent and then their recommendations go to the County Commission. The county administrator has nothing to do with --

COMMISSIONER DE JESUS: So then we could say until they are ranked and submitted to the County Commission for selection.

MR. BAKALAR: Or to the appropriate body.

MR. FINK: Submitted is the key word.

COMMISSIONER DE JESUS: Let's agree to concept and let legal work out the language. We want to make sure that there is --

MR. FINK: By approved, do you mean approved by the Commissioner or do you mean the procurement committee, selection committee.

MS. CEPERO: Approve their recommendation. When they are finished with their deliberations, the selection committee.

COMMISSIONER DE JESUS: Let me try to put it in context.

If you all agree with that context, we will give it to the county attorney to draft the language that is coming back to us. Remember, we're voting on this stuff. We can go back and address it if we need to.

Rob, I want to make sure you understand the intent and then you can work out the language for us. We're saying that we don't want any County Commissioners involved in the selection procurement process. Once that selection procurement committee makes a recommendation and ranks those vendors and submits them to the

appropriate authority, county administrator, County Commission, then the County Commission will engage in their due diligence period, research, recommendations, once that selection process is sealed.

Can you please work out some language for us on that? Are we good with that?

MS. RORAPAUGH: Because I don't deal with procurement, the RLI process, that is part of the procurement process; correct?

MR. FINK: Yes.

MS. RORAPAUGH: And that happens about in the selection committees. Okay.

So those three staffers or five staffers or whatever, they would draft the RLI to go out?

MR. FINK: No.

MS. RORAPAUGH: Who does that?

MS. CEPERO: The procurement division.

MS. RORAPAUGH: Okay. The department does. Okay.

MR. FINK: They either draft the RFP or the RLI, but it's initiated by the individual's department that says I need --

MS. RORAPAUGH: Okay. Got it.

COMMISSIONER DE JESUS: So we're going to have 6 A and no longer a 6 B. Is that correct?

COMMISSIONER SHECHTER: Correct.

COMMISSIONER DE JESUS: Mr. Teitler.

MR. TEITLER: Correct.

COMMISSIONER DE JESUS: Okay.

MR. FINK: And then the “or” goes away.

COMMISSIONER DE JESUS: A, 1, 2, 3, 4 and B.

MR. FINK: Right.

COMMISSIONER DE JESUS: Are there any other comments, recommendations, discussions on 6 A as amended and recommended to the county attorney? I need a motion to approve.

MR. FINK: Motion.

COMMISSIONER DE JESUS: Motion by Mr. Fink.

COMMISSIONER SHECHTER: Second.

COMMISSIONER DE JESUS: Second by Commissioner Shechter. All in favor signify by saying aye. Any opposed, same sign.

7, financial disclosure. You know, guys, we're going to go to 8:15. We're going to do other business, so let's take on financial disclosure. It's a short one, and we will take on other business before we go to the rest -- maybe. Let's see how it goes.

Financial disclosure. Any comments on 7 A, financial disclosure?

Again, Rob, that would be common language. That is pretty straight forward.

MR. FINK: I move 7 A.

COMMISSIONER DE JESUS: There is a motion on the floor to move 7 A.

MR. WOLFE: Second.

COMMISSIONER DE JESUS: Second by Mr. Wolfe. Any further discussion on 7 A? Hearing none, all in favor signify by saying aye. Any opposed, same sign.

MR. COLLADO: Can I ask a question?

What office has the responsibility of providing the education and training? Is there a specific office or entity that takes up that responsibility of putting together that type of workshop?

COMMISSIONER DE JESUS: Number 1 says the county attorney.

MS. RORAPAUGH: Number 2 says the county attorney.

COMMISSIONER DE JESUS: Let's back up a minute. Is C right? Should that be 8?

MR. TEITLER: No. That is a whole different heading. When this actually goes into minutes form, it will look clearer.

COMMISSIONER DE JESUS: It will make sense.

MR. FINK: You mean clearer then it is now? That would be good.

MR. TEITLER: Heading B are the standards of conduct.

MS. RORAPAUGH: Got it.

COMMISSIONER DE JESUS: So 7 was understanding of conduct, under B 7. Okay.

MR. TEITLER: When it's formatted which it will the next time out, it will look clearer.

COMMISSIONER DE JESUS: I'd love to get through training and education and we will come in fresh for office of inspector general under the new language that Rob is going to -- that we have already got, so don't wait for him to put it in. You have got that e-mail.

MR. TEITLER: When I submit something, say Monday, it will have the new and improved version of the same thing.

COMMISSIONER DE JESUS: Okay. Good.

One, any comments, thoughts, comments?

MR. WOLFE: Maybe we say the office of the county attorney or a department designated by the county administrator, to give some flexibility.

COMMISSIONER DE JESUS: I think we left it there because that is currently where it's done.

MR. WOLFE: I mean I'm just wondering --

MS. RORAPAUGH: In case we get an IG.

MR. FINK: It should say with the county attorney because they are talking about sunshine law and you are talking about --

COMMISSIONER DE JESUS: If we get the IG, should it go there?

MR. FINK: No.

COMMISSIONER DE JESUS: Again, that is going to be more of the separate -- I agree. I think it's good where it is. We're asking in there that we specify a format. How do you want them to certify that process? Is it going to be a form that is going to be created that they have to sign and turn in? Is it a certificate from the course? What is it? When we say certify or acknowledge, what are we looking for there?

MR. WOLFE: You have to specify --

COMMISSIONER DE JESUS: Well, you're going --

MR. WOLFE: I mean whatever the county attorney decides whether it's going to be a course or a certification process.

MR. BAKALAR: A format determined by whoever, the county administrator and available for review.

COMMISSIONER DE JESUS: At the Broward League of Cities, Commissioner Lieberman made a comment that there is already a program in place that we do. Why are we recreating the wheel or something to that effect?

MR. TEITLER: That is on three.

COMMISSIONER DE JESUS: What we're doing now is we're saying besides that, we want to have a menu and you can pick and choose what you want to do. Just meet your four hours if you are new, meet your eight hours if you are an incumbent, and instead of what is doing what us currently offered, you have some other options.

Do I understand that?

MR. TEITLER: Paragraph 3 incorporates the discretion to use the Association of Counties, which is what she was referring to.

COMMISSIONER DE JESUS: Right. So she could do that for eight hours. She could mix or match or whatever that is, and that was my response. My response is we're not telling you which one to do. We're just giving you some options. Mr. Fink.

MR. FINK: Wouldn't you think it would be eight hours for new; four hours for continuing education? I mean if somebody is coming in new, they are the ones that need more training. I think we have got the numbers reversed.

MR. BAKALAR: But some of these seminars under three, they are all day seminars.

COMMISSIONER DE JESUS: It says a minimum of.

MR. FINK: This to me is ass backwards. Pardon my friendship, but --

COMMISSIONER DE JESUS: No. I agree. I don't know that we vetted that earlier, but it does make sense. I was fortunate to have a great city attorney who spent a couple of days with me because I'm slow, bringing me up to speed, but I don't know that four hours would have done it.

MR. BAKALAR: It doesn't say four. It says each member of the Board of County Commissioners, shall on an annual basis --

COMMISSIONER DE JESUS: No. We're talking about -- what he is saying in A, it says four hours from a new --

MR. BAKALAR: But they are not excluded from three, is what I'm saying.

MR. FINK: But we're on number 1.

MR. BAKALAR: I'm saying --

MS. RORAPAUGH: They still would have to do their eight hours every year. They will have their four hour introductory and then their eight hours.

MR. COLLADO: This is what I was referring to earlier. The program may be available through regional universities, municipals, so on and so forth, so we take however that is organized.

MR. FINK: I'm sorry, Howard, but this is clear as mud.

If I'm reading this, it says the office shall provide a minimum of four hours of training to new County Commissioners on topics of the sunshine law. Okay? If I come in on January 1 and get my four hours, it doesn't say how now I have to take another eight hours.

MS. RORAPAUGH: Each member of the Board, shall on an annual basis --

MR. BAKALAR: You're not reading number 1.

MR. FINK: I'm reading number 3.

COMMISSIONER DE JESUS: Order, please. Guys, I need your help with just being recognized. We're passionate about some of these things. That is okay. Be recognized and you can be as passionate as you want to be. Let's just try it have a little bit of order. We work much better this way.

I hear what you are saying, Mr. Fink. I think if you just take a second and read that, what he is saying is that I was new, I got my minimum mandatory of four. Now I'm a member of that Board of County Commissioners and I have an obligation to do eight. It doesn't exempt me to do eight. I got my four because I was new. I got crowned and it's still an annual requirement and it says shall, not if you choose, so I think it covers it. If there is away to make it clearer, we can change it. I just don't see that it needs to be. It's there I agree with you -- the obvious the new should get more. They are going to get more. They are getting 12, not eight.

COMMISSIONER SHECHTER: County Commissioner elections are what month?

MR. FINK: November. When do they install after the election?

COMMISSIONER DE JESUS: The next meeting.

MR. FINK: So that means, when are they going to get the other eight hours, in the next month and a half?

COMMISSIONER DE JESUS: It's an annual requirement.

MR. FINK: Annual is calendar.

MR. BAKALAR: Not necessary.

COMMISSIONER DE JESUS: its terms. We're not going to have the same terms either. It's annual. If I start in November --

MR. FINK: You're going to end in November. Every year you're going to start in November, whether you are on this odd year.

COMMISSIONER DE JESUS: But it's going to be different because we're all elected at different times.

MR. FINK: No, the elections are in November.

COMMISSIONER DE JESUS: Not all of us.

MS. RORAPAUGH: But they take the swearing in at different times, like state legislatures are sworn in, in February.

MR. FINK: We're talking about the County Commission.

COMMISSIONER DE JESUS: Right. County Commissioners don't all get elected at the same time.

MR. FINK: They all get in elected in November.

COMMISSIONER DE JESUS: But different years.

MR. FINK: Yes. It doesn't matter. It still November. I don't care if it 2002 and 2006. They are getting elected in November.

COMMISSIONER DE JESUS: I got you. I got you.

MR. TEITLER: I can put a 12 month period.

COMMISSIONER DE JESUS: Is there any support to add -- I hear you. I don't think we need the clarification. If there is a majority that wishes to clarify it, let's clarify it. I think we're beating up on an opinion right now that is clear, and I don't want to debate an opinion all day. Are we okay with it as it is, or do we want to add 12 months.

MR. WOLFE: I think annual says it.

MR. COLLADO: I think it's pretty clear, annual.

COMMISSIONER DE JESUS: Any other comments on C 1? C 2?

MR. TEITLER: That could actually go without saying.

COMMISSIONER DE JESUS: I don't want to leave anything to presume.

MR. TEITLER: Our office is counsel to the County Commission.

COMMISSIONER DE JESUS: C 3? Do you need time to read?

No further comments being heard, I need a motion to approve C, 1, 2 and 3.

MR. WOLFE: So moved.

COMMISSIONER DE JESUS: Moved by Mr. Wolfe.

COMMISSIONER SHECHTER: Second.

COMMISSIONER DE JESUS: Second by Commissioner Shechter. All in favor -- any further discussion? All in favor, signify by saying aye. Any opposed, same sign.

MR. FINK: Nay.

COMMISSIONER DE JESUS: Let the record reflect Mr. Fink is pouting.

MR. FINK: I'm not.

COMMISSIONER DE JESUS: I got you. Mr. Teitler, there is a question on the floor. D is pertaining to office of inspector general; correct, in that clear format?

MR. TEITLER: D is a whole separate section and part 1 is inspector general. Then there are others after that.

MR. FINK: May I ask a question? Where is the section on penalties?

MR. TEITLER: That is part of enforcement (inaudible).

COMMISSIONER DE JESUS: Let's open the floor for other business. Before we move on, I need approval of the minutes from 1/13 and 1/20, as presented.

MS. RORAPAUGH: So moved.

COMMISSIONER DE JESUS: So moved by Ms. Rorapaugh.

MR. FINK: Second.

COMMISSIONER DE JESUS: Second by Mr. Fink. Any comments, changes? All in favor signify by saying aye. Any opposed, same sign. Minutes from 1/13 & 1/20 approved. Ms. Cepero, could you give us a recap?

MS. CEPERO: Certainly. Most of the deliverables and things that will be coming back are from Mr. Teitler, in the form of legal opinions, as well as the sections that you guys have directed him to change. So as far as the deliverables to come back, other than those types of issues, the only thing that I was going to come back and bring you, and I will e-mail it to you tomorrow, is the county policy related to the use of county staff, just for verification, as we discussed. I think that he is pretty much it, other than Mr. Teitler's long list.

COMMISSIONER DE JESUS: Do you have any questions or need clarification?

Folks, I want to make sure that everybody understands the next two meetings that have been confirmed. We have a quorum. It's important we maintain a quorum. It's a tight quorum, so our next meeting is February 11 -- 10, I'm sorry. Wednesday morning, and that is 8:30.

MR. TEITLER: 8:00 o'clock.

COMMISSIONER DE JESUS: We moved that to 8. Okay. 8 am. Please note that. I still have 8:30. It is 8. I know we started earlier then. Allow for traffic. We can't

get started until everybody who has confirmed gets here because that is our quorum.

Our next meeting is the 12, Friday the 12, 8 am as well, so remember, there is a different traffic pattern coming down here at that time.

MR. TEITLER: Mr. Chair, I will be at that meeting next Wednesday, but if there is a meeting held on the 12, I will not be in attendance. I have to be in Tallahassee. There will be coverage, probably through Andrew Myers.

COMMISSIONER DE JESUS: Okay. I'm hoping -- remember, we set the 12 saying that we want to be done by then.

MS. RORAPAUGH: We do the 10, we do the inspector general and everything else.

COMMISSIONER DE JESUS: We have one session left. If everybody can dig deep and stay focused, I think we can realistically get through that. We will jump right back to the beginning, do a cursory review and a final vote, and I agree, I think the goal should be to have a final draft on the end of that 10 meeting, coming into the 12.

Ms. Rorapaugh.

MS. RORAPAUGH: If the Chair and Monica could communicate to all Commission members what the timeline is now, as in we will do the inspector general at the next meeting and then on the 12 will be the final vote on the entire package, so those who are planning not to attend may decide to readjust their schedules and attend.

MS. CEPERO: I will send something.

MS. RORAPAUGH: It would be a shame for people who have been here for all these meetings, to miss the final vote.

COMMISSIONER DE JESUS: I would also like to, while we're talking about a final vote, I know that many of us have been passionate on many different issues. Some of us have stronger feelings on some of the things than others, but I think Mr. Wolfe, on at least one occasion, if not a couple this evening, kind of went with the majority, said his piece and went. I think when we come to a final vote, while everybody is entitled to their final opinion, I believe that it is important that as a group who has worked together, in what will be a year, that we're recommending something that we can all recommend. It would be -- there was some debate what if we have an even number; what if it's a dead lock 5 to 5. I think it would be a tragedy for us to even recommend something that was even that close.

MS. RORAPAUGH: Unanimous.

COMMISSIONER DE JESUS: So, be sure to vet your concerns. Be sure to -- let's beat them up, so that at the end we can all say, you know what, I might not agree with everything. I might not have gotten my way with all these things, but this is a group that has worked hard together and we're going to unanimously recommend something.

Any other business? I thank you all for your time. Move to adjourn.

Minutes
Broward County Ethics Commission

February 10, 2010

MEMBERS: City Commissioner Neal de Jesus, City of Cooper City - Chair
City Commissioner Carl Shechter – Vice Chair
Howard Bakalar (via teleconferencing)
City Commissioner Felicia Brunson
Washington B. Collado
Alfreda Coward
Kenneth Fink
Robin Rorapaugh
William Scherer
Paul White
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Robert Teitler, Assistant County Attorney
Leah Von Leu, Real-Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 8:00 a.m. on February 10, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the meeting:

The Chair: The first order of business, I would like to welcome Mr. Paul White; Commissioner Jones's new appointment.

Welcome sir, thank you for joining us. Though in the 11th hour, we are grateful to have you here. If you would like to say a few words, I would open the floor to you.

Mr. White: Thank you. I am just honored to be here and be a part of this Commission and I'm looking forward to doing as much as I can.

The Chair: Great. Per discussion last meeting, I sent a letter out to the County Commission. You all received a copy of that, inviting them all to stay engaged in the process to the very end. We received one response from Vice Mayor Gunzburger. I believe you all got a copy of that as well. To date, I haven't received any others, but it's not to say I won't, or you all won't. The key was to

just let them know that although we are coming to a close, we are open to comment and debate to the very end.

We will continue on our working draft today as we have in the past. We will begin to reiterate; we've got quite a bit to cover in a short period of time. I appreciate your continued cooperation in keeping a quorum and order as we move forward. We've been covering a lot of ground in a short period of time.

The plan is to complete this draft today and have a final draft that we will then reconvene on Friday and vote on. We will remain flexible. If we can't make it there, we won't force a timeline that is against what we're trying to accomplish, but that's the plan.

At that final meeting we will take an opportunity for all Commission members to make final comment; give any final input or comments on the process and we will take a final vote that will be presented to the County Commission on Friday.

With that being said, I will open the floor. Mr. Fink, were you wanting to be recognized or are you waiting for the draft?

Mr. Fink: I have a question regarding the communication yesterday from Monica regarding the outside employment. I was confused about that.

The Chair: Can we cover that under other business, or do you need an answer now before we move on?

Mr. Fink: Either way.

The Chair: Let's handle it under Other Business. I appreciate it. Unless you think it has to do with something we're going to cover.

Mr. Fink: No.

The Chair: Thank you. So if you'll turn to page 10 of the current draft. That's what we're working on today; insertion of the language that we directed County staff, the County Attorney's Office to prepare, and we will start with 1. Office of the Inspector General, A1, 2, and 3. Ms. Rorapaugh?

Ms. Rorapaugh: I just had a question. On the earlier new language that our attorney put in, when will we discuss that for any changes? Like I'm looking at page 8; line 6 and 7, under area 3. Will we do this after we finish the whole --

The Chair: Yeah, we can. If you're okay with that, unless you think it's going to have some bearing on where we're going. When we get through the Inspector General, we'll go back and do a cursory review of all items.

(Mr. Wolfe entered the meeting room at this time.)

Ms. Rorapaugh: Great. Thank you.

The Chair: Thank you. Good morning, Mr. Wolfe.

Mr. Wolfe: Good morning.

The Chair: The floor is open for any member comments. I'll give members a few minutes to review that section. With no questions being heard after that, we'll move on to the next section.

Mr. Scherer: Where are we? Page 11?

The Chair: Page 10, 1A, 1, 2, and 3.

Mr. Fink: I have a question.

The Chair: Mr. Fink.

Mr. Fink: Under Item 1, the Office of Inspector General is created to detect conduct involving waste, fraud and misuse of management. Is waste an ethical violation or is it just for lack of a better word, an inability to understand your job and what you're supposed to do? Waste isn't ethical or unethical. Waste is basically stupidity.

The Chair: Mr. Scherer?

Mr. Scherer: I think most Inspector General Offices look for waste inefficiencies as well and if they're doing their job. And really, if the Government is wasting money and does it intentionally, there is an ethical issue. If they're not doing it intentionally but wasting, it seems to me, the Inspector General ought to report that as well. It kinds of overlaps the Auditor. But --

Mr. Fink: That's my point. My point is that waste would be something that an Auditor would address; not an ethics violation. Waste I would think, would come under procurement and that money is being spent wastefully, or there was a better way of more judicious way of using the purchasing power, but I'm not sure that's a violation of ethics and that's something as you said, would be redundantly backed up by the Auditor, not a Code of Ethics. That's my question.

The Chair: Before I open the floor to Mr. Teitler, what I would add is if it's going to go to the Auditor, if the Auditor finds waste, he then may refer that to the Inspector General to determine whether that waste was intentional.

So I don't want to get got up on semantics. If there's a strong opinion that it needs to come out, maybe it should come out. If there's not, I don't know if it's irrelevant. And it might even be an issue for the Inspector General. And with that, I'd like to ask Mr. Teitler to –

Mr. Teitler: Well, I would agree with Bill that it is an issue that is inherent under an Inspector General's function. If you want to tailor this function to be strictly ethics issues, you could do that as well. But the intent of the local bill and the Palm Beach and Dade County ordinance was to go beyond just strictly ethical issues for the Inspector General.

The Chair: Mr. Scherer.

Mr. Scherer: Can I give you an example. The Inspector General is doing his investigation and he determines or she determines that each County Commissioner has five Aides on the payroll – I'm making all this up of course – and they have cars, and they all have credit cards, and they have blah, blah, blah, and making it worse and worse and worse and the Inspector General comes up with that that the County voted for it. It's not illegal or unethical. But if the Inspector General, who doesn't report to the County Commission, wants to talk about waste, the Inspector General can do that.

Another example that is a little more, without taking too much time, the inability to spend the money the Federal Government gave the County Commission to synchronize the traffic lights in the County. They had to give back some money. So there's a potential issue that the Inspector General could have been early on early on so maybe more could have been done to synchronize the lights and spend the money so there wasn't an issue of having to give back millions of dollars because they couldn't get around to it, for instance.

Mr. Fink: How would that be a violation of the Code of Ethics?

Mr. Scherer: Well, don't you think the public would want to know about it, Ken?

The Chair: Mr. Bakalar, are you trying to be recognized? I'm sorry, I thought I heard something.

Mr. Bakalar: Just that I'm in agreement with Mr. Scherer.

The Chair: Thank you. Mr. Wolfe.

Mr. Wolfe: We had an issue if I recall, a number of years ago where a now departed Commissioner was accused of misusing his County credit card for expenses and you know, I think his briefcase and some other things that had to

be returned and stuff and I think that would be appropriate in terms of waste and mismanagement that an Inspector General might investigate.

The Chair: Is there any support to remove the word waste from 1A, 1? None being heard. Any further comments on either section 1, 2, or 3? Moving to Section B; Functions, Authorities, and Powers; 1 through 7C. Ms. Rorapaugh?

Ms. Rorapaugh: Under Section 3, line 9 where it says a complaint received by the Office of Inspector General that has been made against a candidate, including an incumbent. We hold abeyance for 60 days which I understand, but is there a better way of saying that?

The Chair: I apologize. Could you give me a page?

Ms. Rorapaugh: Page 11, line 9.

The Chair: Thank you.

Ms. Rorapaugh: I don't believe we have authority over candidates. Maybe there's a better way of saying that.

Mr. Teitler: Well, it's the Inspector General's receipt of a complaint with the subject matter being the candidate. Not controlling an actual candidate.

The Chair: Well, I think the question is – please correct me if I'm wrong -- will the Inspector General have the authority to pursue a candidate who's not an incumbent. I don't believe they will. If that candidate is elected, then obviously they would be subject to the investigation. Mr. Scherer.

Mr. Scherer: Yeah, I don't know how we do that. I mean, I think we're getting into the election law, code, election issues and I'm not sure – I like the idea of it, but I don't know how we have authority to do it.

Mr. Teitler: It can be removed. It was pretty much in the other draft. It came from the local bill.

The Chair: Mr. Teitler, would you make a recommendation for that language? If you could do it now, that would be great – that way we know what we're going after moving forward.

Mr. Fink: I don't think this thing defines who a candidate is – it's just in there, right? Does this bill talk about a candidate?

Mr. Teitler: No, it doesn't have a definition.

Mr. Scherer: I don't think it does either. I think it's just out there.

(Ms. Coward entered the meeting room at this time.)

The Chair: Is there anyone opposed to removing a candidate from the working document? Good morning.

Mr. Teitler, if you would move forward in removing the candidate from that. We'll move on and if you can come up with some language to insert there, you can let us know. Mr. Scherer.

Mr. Scherer: You know, this thing is supposed to protect spurious complaints made to – close to an election – that's the purpose of it. And I don't know, maybe we ought to ask the legal counsel – it doesn't seem very fair that it's held in abeyance for an incumbent Commissioner but the incumbent being challenged, his or her supporters could load up on the challenger and that's rarely investigated so not fair to the public, so seems like maybe we ought to get our lawyer to look at that a little bit to see if we want to make it the people that are running against an incumbent Commissioner. If we can do, we ought to look at some language to do that.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I believe on page 11 or 12, there is a provision that the person who's being filed against will get noticed, but that the public will not be notified, so isn't that protection. I thought I had read it on page 11.

The Chair: Any other comments? Commissioner Shechter.

Commissioner Shechter: Why don't we just strike out the words including and incumbent -- any candidate. Any complaint received by the Office of Inspector General made against a candidate – it would include an incumbent. Just strike that out all together. Doesn't create two categories. It's any candidate.

Mr. Fink: I think that's an excellent suggestion.

Mr. Teitler: Or this provision that came from the local bill as well. It could also be construed as beyond the scope if it's involving other people other than the County Commissioners.

Mr. Scherer: I'm not sure the County Charter couldn't put in this as to anybody running for the office. I like that suggestion.

The Chair: Mr. Fink.

Mr. Fink: I think the point Carl makes is excellent; any candidate, which includes an incumbent. Because if we're trying to prevent an unethical loading

up, for lack of a better word, against one particular candidate by the supporters of an opponent. This would do it. And that's the best way to do it.

The Chair: So on line 9, we're looking at changing "a" to "any" and striking including an incumbent. Is that correct?

Commissioner Shechter: You don't have to say any. Just say a candidate. Made against a candidate for the Office of County Commissioner. Just strike out including and incumbent.

The Chair: Any further discussion on that item? Mr. Teitler, is that good with you? Mr. Scherer.

Mr. Scherer: I'll finish later.

The Chair: We're back on to that section going through 7C.

Mr. Bakalar: For number 2, that's "Good Cause Exists." Is there any way to define Good Cause? I'm in agreement with it, that's it's not just waiting for a complaint. I am just wondering if it could be further defined, maybe in a definition.

The Chair: Could everybody hear Mr. Bakalar? He's asking if under number 2, line 3, we could define Good Cause upon determination that Good Cause exists. Could we define Good Cause?

Mr. Bakalar: Something like document -- I don't have great language here. There's no pad and pen. But I think maybe tightening that up a bit in that section.

The Chair: Any comments? Ms. Rorapaugh.

Ms. Rorapaugh: Robert, is there language that was used in Miami establishing it for Good Cause? Because I think Good Cause – you know it when you see it.

Mr. Teitler: I don't think it was defined.

Ms. Rorapaugh: I think it's like pornography. You know it when you see it. It's local standard.

The Chair: Ms. Coward.

Ms. Coward: It will be difficult to define Good Cause.

The Chair: Mr. Bakalar, while you're in your recliner, if you could come up with some proposed language as we continue our debate and you submit that specific language, we'll be glad to consider it. Mr. Scherer.

Mr. Scherer: It seems like if you put after determination -- upon a determination put the words "by the IG," you would have it.

Mr. Bakalar: Okay. Again, I'm definitely not opposed to what's down there it's just wordsmithing. I like that.

The Chair: Any other thoughts or comments on that? Mr. Wolfe.

Mr. Wolfe: I think that takes care of it. The local bill has a lot more verbiage into it. It says, where after a finding of probable cause, the Inspector General believes in good faith that there's been a violation of any state, federal, or local law, or rule, regulation, or policy, he or she shall notify…"

The local bill gets more definitive but we also don't want to love this thing to death. And it's the other question, Mr. Chair, and it's probably a legal question, do we have – when we get to that point – are we going to have some kind of language in the Inspector General portion in this ordinance that if the state bill does come to completion – does that just trump part of this bill or do we site something in writing in the section that allows the state bill to supplant this?

The Chair: Mr. Teitler:

Mr. Teitler: I think that would – that would happen automatically without saying – if the legislator passes that bill and it's adopted by the voters.

Mr. Wolfe: And you all sit down and mix the two legally? I question that how that works.

Mr. Teitler: Right. I believe so.

Mr. Wolfe: Okay.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I'm also under the impression that if we pass an Inspector General bill, that within this Commission, that the state bill may augment the powers, but it would be an augmenting, not let's change the rules. That's my understanding from the last hearing that they had.

The Chair: Commissioner Shechter.

Commissioner Shechter: That was my point. We were tasked with the job of creating a Code of Ethics for the Broward County Commission. If the state passes something different, that shouldn't supersede what we're doing. This should stand unless ours is stricter.

Mr. Scherer: Unless there's – I'm sorry.

Commissioner Shechter: Well, yeah, okay. If theirs is stricter, that's good. That's okay.

Mr. Scherer: The lawyer got it.

The Chair: Mr. Teitler, was your response, I believe so?

Mr. Teitler: Well, whatever is passed here is going to be applicable to County Commissioners and if that local bill passes, it will be applicable to all officials. So this is going to stand alone to some extent because it's going to be strictly tailored to the County Commissioners.

The Chair: Mr. Fink.

Mr. Fink: I know what our focus and our charge is, but where does staff fall in all of this?

The Chair: I'll give you my opinion and Mr. Teitler, you'll have to weigh in. I believe the County Commission has moved to pass a resolution that would have any applicable parts of this bill apply to any appropriate members of staff.

Mr. Teitler: And I'll clarify that if there is any inconsistency between the local bill, if that goes through, and this, the local bill will take precedence for that inconsistency.

The Chair: Mr. Scherer.

Mr. Scherer: There is a severability clause in there.

Mr. Teitler: Right.

Mr. Scherer: Which means that if there's something in here that's inconsistent with state law, it's excised out. It's removed if it's inconsistent.

The Chair: Mr. Teitler, if we can come back to Mr. Fink's question. I'm not sure that we answered it. I gave my opinion. I don't know if it's accurate.

Mr. Teitler: Could you repeat your question?

Mr. Fink: I can't remember that far back. No --

Ms. Rorapaugh: I think it was will staff be covered under this?

Mr. Fink: This is the IG portion. And so the question becomes where does staff fall in and besides number 2, it ties into number 4 as well.

Mr. Teitler: Right. But this is being crafted for the County Commissioners. Any subsequent – I mean, the County Commission already approved the Resolution indicating their intent where applicable, to make this code applicable to staff as well. So that's already been decided by the County Commission.

Mr. Wolfe: Mr. Chair?

The Chair: Mr. Wolfe.

Mr. Wolfe: At the appropriate time too, I think it would be appropriate in here if we could -- somewhere in this document -- we could also site some language for the Board of County Commissioners -- I would like to do a timeline to say the Board of County Commissioners shall within 60 days of adoption of the Broward County Code of Ethics shall enact the employee code where appropriate to all employees

And it's up to the County Commission to adopt it but we could say in this document, upon adoption you got 60 days to make it applicable to the County employees. And I spoke to the Mayor about it last night and he approves.

The Chair: Mr. Teitler – any opposition to that recommendation? Any recommendations, Mr. Teitler, where would that go within this Code?

Mr. Teitler: We could it put at the very end or the very beginning.

The Chair: any other discussion on that recommendation.

Ms. Rorapaugh: At the beginning is my recommendation.

Mr. Teitler: At the beginning? Page 2.

Ms. Rorapaugh: Probably after – yeah, on page 2.

Mr. Teitler: After line 2?

Mr. Wolfe: Yeah.

Ms. Rorapaugh: Yeah, after statement of policy.

The Chair: Any other comments leaving through page 12, 7C? Ms. Rorapaugh.

Ms. Rorapaugh: Yeah, on page 12, 7C, what is the Administrative Tribunal?

The Chair: Mr. Teitler.

Mr. Teitler: Where are you? I'm sorry.

Ms. Rorapaugh: I'm on page 12, section C. Line 11 through 18.

The Chair: Mr. Teitler has the floor.

Mr. Teitler: Given the County Commission has already passed a Resolution saying they want to make it applicable, there could be an issue here as to actually inserting that into the Code and being beyond the scope because it's actually instructing – should that occur and the mandate of the Charter is to again, create a Code of Conduct for County Commissioners and to insert something in here mandating within a certain time frame that it be applicable to staff could be construed contrary to the Charter. And that being said, they've already enacted a Resolution given their intent to do so.

The Chair: Let's hold Ms Rorapaugh's question and we'll come back to that and resolve this issue. I thought – we've been through this several times now. And I thought at some point that it was resolved and I could be wrong because it was quite some time ago, that it was unanimous consent of this Commission to require that this be included regardless of what the County Commission did or didn't do and I know that at our request, they – I believe – didn't we send a letter asking them to do that? They agreed and made a Resolution.

I think all we're asking for now is that there be a timeline on that so it's done in a timely manner, not indefinitely. So I don't know the difference in what we moved and they approved to where we are now. So if can vet that out a little bit we can move forward. Mr. Teitler.

Mr. Teitler: Well, again, it was a Resolution that was approved. It wasn't an ordinance, it was a Resolution indicating our intent to do so where applicable.

So, I mean there is going to be discretion among the County Commission on what portions of this -- not the entire document -- that would be applicable to staff. So there could be problems in just – I mean aside from the timeline – there could be problems in ordering this document to be made applicable to staff.

The Chair: Well, I believe Mr. Wolfe addressed this by saying all applicable portions within a certain time. Mr. Wolfe.

Mr. Wolfe: Right. We're giving the County Commission discretion on saying what is applicable and appropriate to all employees of Broward County. I think that gives the County Administrator and the Commission the discretion to create that document. We're putting a timeline on there and I think that's appropriate given this is a Code of Conduct for the Commission and we're telling them what they're going to be doing. If they object to it, they can go to court.

The Chair: Ms. Cepero.

Ms. Cepero: The only point I wanted to make was perhaps you may want to put something in there to give you more flexibility because as the Charter provision states, the County Commission, if they do not adopt it, then you go to the voters, so the way that the language says, it's assuming that the County Commission will in fact adopt it. That's their intent. But it's not exactly how the Charter provision is read.

Ms. Rorapaugh: I think all you need to say is adopted by the County Commission or the voters of Broward County -- in additional to that.

The Chair: Any other members?

Mr. Wolfe: Do we need to move adoption or is it consensus?

The Chair: Here we go again. Again, I don't understand the difference between the last time we debated this and agreed unanimously and sent a letter requesting that they do so. They acknowledged that and passed a Resolution.

As has been said, it's their intent to make it applicable, at least appropriate portions applicable to County staff but intent change and this doesn't unless at the end the day, the voters say they don't want it. I don't see that happening.

I think we are just asking to insert a time line on a request that was already agreed to so I don't know, without being at a stalemate with our counsel again, I just think we move this forward unless somebody has some compelling argument on how something has changed. Mr. Scherer.

Mr. Scherer: Just put it in there with a sunset provision that says that the County Commission adopts a resolution that applies to staff or an ordinance that applies to staff prior to the time this goes to the voter.

What we are worried about is that all of a sudden this gets passed and we got a hole or that they will accept it without a resolution to do that, right? And a

Code of Ethics that applies to the County Commission but not to staff, which is something that we don't want. Right?

(Mr. Collado entered the meeting room at this time.

The Chair: Come on in.

Mr. Wolfe: Right.

Mr. Scherer: I don't think they are going to do that. I think they are all in support of it. But it seems we ought to be able to put something in there to protect that by either stating it's our intent or our strong desire, dah, dah, dah, dah.

But it doesn't get passed and this thing has to go to the voters. It goes with the provision that it applies to staff where applicable.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I think I agree with the Chairman in his interpretation, if we put the language that Mr. Wolfe has put in with the adopted by Commission or by the voters, that solves our problem and all of us have some -- we are all hopeful that the County Commissioners are going to do the right thing but this gives them a timeline. And a timeline means the right thing will be done.

The Commission has been told by Charter, by Charter by the voters twice to adopt a Code of Ethics and they have not done it. So I think this assures what we put forth will eventually be a part of the employees' manual.

The Chair: Mr. Wolfe.

Mr. Wolfe: Yeah. If you want to tweak the language a little bit it's fine but I think the language is appropriate. And again, I spoke to the Mayor about this issue last night. He fully intends to vote on our recommendation in its entirety for adoption once it's presented to him and he intends to have the staff applicable too, so I think it's appropriate.

The Chair: I think the goal is that the application to County staff is not indefinite. It gets done in a timely manner. I don't want to put a 30, 60, 90-day on that because I don't know what it's going to take.

We have been at this for a year and you would think it shouldn't take that long but what is it going to take to vet through this thing and make sure that it applies appropriately and so I'm really not too wrapped up on the exact language.

The intent is that when this is passed either by the County Commission or by the voters, that there is a resolution passed that says here is what works for staff. Mr.Teitler.

Attorney Teitler: I would agree with that, that putting a timeline on it might make it unworkable and onerous -- put it together by the County Commission. I see the intent part of it.

The Chair: Yeah. And I want to clarify what I mean by not 30, 60, 90-days, because I don't know how long it's going to take. I do want a deadline. Maybe not a timeline but I do want a deadline.

I don't want an indefinite you interpret how you want that to go and that's why I'm thinking Mr. Scherer's language with a sunset provision gives something -- it's either going to be March -- well, if they vote on it March 2nd, it's not likely that's a good sunset date because they won't be able to get it done by then I would think.

However, if for some reason it's rejected by the majority and it goes to the voters in November, that is certainly enough time to get it done in my opinion. So maybe-- the floor is open. If the only resolution is a specific timeline, then I am willing to consider that. Mr. Teiter?

Attorney Teitler: Well, we could indicate in there instead of putting a specific timeline, we could put in as expeditiously as possible but in any event within the 180 days, something of that nature.

Also, within the provision recognizing that they did approve the resolution. Recognize the fact that the resolution exists within that one or two sentences. But to state that instead of giving it a definite 30, 60 days, may be much more workable.

The Chair: Mr. Wolfe?

Mr. Wolfe: I'm open to some additional language but we can't allow a situation that happened with the Charter Review telling the County Commission to adopt an ordinance and it takes a couple years and another round of the voters so I'm amenable and open to additional language but I think we need to hold their feet to the fire wherever possible.

And I do believe honestly that and I'm being optimistic, saying they are going to adopt this thing without going to the voters. I mean I truly believe that is the intent.

The Chair: I'm okay with 120 days. But I think that is longer than it going to take. It shouldn't take that long. The old cliché, Rome wasn't built in a day. Comes to mind when we look at this.

Mr. Wolfe: 120 and the sunset language?

The Chair: We're making change and sometimes that takes a little work.

Mr. Wolfe: How about we make it 90? Compromise.

The Chair: Any other input from the floor? That's three months to review a document and determine what is applicable to staff if they already haven't started doing that. Anyone think that is unreasonable?

Mr. Bakalar: That's totally reasonable.

Ms. Coward: I'm not sure if it's reasonable or not. However, I would be inclined to suggest 120 days unless we think somehow something detrimental is going to happen in 30 days. Mr. Wolfe, if I may address him?

The Chair: Yes.

Ms. Coward: Specifically, is there something that you think some harm or cause to the community with that additional 30 days –

Mr. Wolfe: I'm very much open to compromise to all my colleagues here so if that makes the comfort level for you better, that's fine.

The Chair: I move that we accept Mr. Teitler's language -- Mr. Wolfe's language with Mr. Teitler's timeframe.

Mr. Wolfe: Which is?

The Chair: 120 days. Any angst with the members?

Ms. Coward: What was that, Mr. Chair?

The Chair: Any opposition? Any further discussion through 7C? Mr. Teitler, do you want to read that back to make sure we're good, or –

Mr. Teitler: Input on page 2?

The Chair: On page 12 – oh yeah, I'm sorry, we're on page 2.

Mr. Teitler: Well, what I have upon adoption by the Board of County Commission, the voters of Broward County, the Board of County Commissioners, shall, in some respect, I want to recognize that they have approved the Resolution, shall as expeditiously as possible, in any event, within 120 days within passage of the Code of Ethics, enact the applicable portions to County staff – I can work on that language.

Mr. Wolfe: County Code of Ethics enacted an Employee Code of Conduct applicable and appropriate to all employees of Broward County.

The Chair: Mr. Teitler, what's the thought or concern behind, you wanted to add the language that references the County Commission already passing a Resolution.

Mr. Teitler: Just to recognize that they have already take that formal step.

The Chair: Okay. Any other comments? If we could go back to – I'm sorry?

Mr. Teitler: Could counsel also speak? Mr. Meyers.

The Chair: Mr. Meyers.

Mr. Meyers: Just to answer that question. You all have resolved that this should be applied to staff and the County Commission has stated that it is willing to do that and has in fact orally stated its intent to pass a Resolution to do so. Now you're putting a timeframe. I just think it's important as a matter of governmental powers to recognize that this additional request and this additional mandate of a timeframe is built upon the County Commission already recognizing its intent to do so.

Because again, you're not – absent this timeframe language, you're not imposing in this document an obligation on the County Commission to apply the applicable provisions to staff, right? You've accepted their commitment to do so in the form of a Resolution. To pass a Resolution. There's nothing in this document that says this is applied to staff.

All I'm saying is that there is a term called commodity. With a "t." I don't know if that's operable here. But what you're doing is that you're recognizing that they've already stated their intent to do so and in order to make this affective and not roll out too much of a lapse of time, you're stating that it should be done as expeditiously as possible. I think it's just good form to do so.

The Chair: When was that Resolution passed?

Mr. Wolfe: A couple of months ago.

The Chair: So then don't we take into consideration that time that's already passed? If that's what we're going to rely on. They've already done so –

Mr. Wolfe: It's based on the adoption. I mean, I'm under the impression and the belief and the good faith that that Commission has adopted our recommendations.

Commissioner Shechter: Well, they've already done that.

Mr. Wolfe: A couple won't, but most will.

The Chair: Any comments or questions on that? Back to Ms. Rorapaugh's question. Mr. Teitler, I know you were engaged in a conversation. But page 12. Beginning on line 15, Ms. Rorapaugh asked what is tribunal?

Ms. Rorapaugh: What is that section C?

Mr. Teitler: That would be hearing officer created by the County, they hear administrative matters before the County.

Ms. Rorapaugh: And what is the makeup of that Administrative counsel today?

Mr. Teitler: The County retains hearing officers to hear these matters. Attorneys, and other individuals that make up these panels, well not panels, but individual hearing officers. And some of them are provided by ordinance.

Ms. Rorapaugh: Because I have not heard of this. I am sure they exist. But when you say tribunal --

Mr. Teitler: Well, the issues was whether we wanted one, or two, or three members of any kind of hearing officer group to hear these issues. And generally County matters are heard by one hearing officer. Tribunal -- depending on whether you want more than one person involved. That's another issue before this Commission.

Mr. Fink: Point of information. When you use the word "we" as you just did, did you mean we, as a body, as the Ethics Commission?

Mr. Teitler: This Commission.

Mr. Fink: Because tribunal implies more than one person.

Mr. Teitler: Right. And that's still an issue. You may want a single hearing officer.

Mr. Fink: Well, tri is three. I know.

Mr. Meyers: For that reason I was saying we were concerned, again about due process issues here. Normally ethics panels like this consist of more than one member. Goes to the state, it's a very large panel.

I think what the thought process here is it's probably going to be a three person panel, and that there will be ordinance language to establish that. They will be independent qualified hearing officers that understand the Ethics Code.

The Chair: Mr. Scherer.

Mr. Scherer: Yeah, I don't like that. I don't like this paragraph C. think we should consider getting the Selection Committee to empanel hearing officers and to supervise the hearing officers rather than the administrative tribunal established by the County. Because my experience is that they rule for the County an awful lot. I think we can get this outside the County's existing system.

The Chair: So you're saying hearing officer selected by the Selection Committee.

Mr. Scherer: Yes. Or some kind of a panel basis, or however the Selection Committee decides to do it.

The Chair: The question for me is why are we supporting the creation of an Inspector General and that's to get the investigations out of the County to avoid the appearance of an impropriety. So we take it out of the County, give it to an Inspector General and for civil infractions, we put it right back into the County. It doesn't make any sense.

So if that Selection Committee is the one who is going to select the Inspector General, than why wouldn't they – or should the Inspector General decide who the – so the same Selection Committee, and I'm okay with that. It doesn't make sense.

Mr. Scherer: Checks and balance. If you have a different panel selected for the hearing officers.

The Chair: Gotcha. Why put some in and some out. Doesn't make any sense. Any other comments?

Mr. Wolfe: Agree with the Chair.

The Chair: Do we need clarification on that, Mr. Teitler?

Mr. Teitler: No. We're good.

The Chair: Moving on so we can take 8 through 12. Page 12 and 13. I apologize. Any further comments on this section we're just leaving.

Commissioner Shechter: The only comment I have is that we have to make sure that the Selection Committee is free of County input.

The Chair: And we're going to get to that section shortly. Good point. Any further comments on the section we just finished? Moving 8 – 12.

Ms. Rorapaugh: I would like to, on page 13, I'm sorry, section C, line 13. I think we should be asking for five years experience.

The Chair: We're not there yet.

Ms. Rorapaugh: I'm sorry.

The Chair: We're still on the remedial course, 8 – 12. Page 12 and 13, 8 – 12. Do the members need more time?

Mr. Fink: I have a question.

The Chair: Mr. Fink.

Mr. Fink: The Inspector General shall establish policies and procedures and monitor the costs of the investigations. Does that mean he will monitor his own expenses?

The Chair: That's the way it reads to me.

Mr. Fink: In terms of checks and balances as Mr. Scherer alluded to and Carl alluded to, would it not be more appropriate to have an Auditor monitoring the costs of the investigations undertaken?

The Chair: Not if it's the County Auditor.

Mr. Fink: I understand it's not the County Auditor.

The Chair: Mr. Scherer.

Mr. Scherer: I really think that we should cover this when we get to the Selection Committee because I have an idea of some more duties for the Selection Committee.

The Chair: Okay. Mr. Wolfe.

Mr. Wolfe: This is just to establish that the Inspector General is to administer his or her officer properly at all costs; programs and etc.

Mr. Fink: The concern is the –

Mr. Wolfe: The oversight of the Selection Committee.

Mr. Fink: That's fine, as long as we clarify some approval.

The Chair: Any other comments? Do member need more time on that section? None being heard, C1 – 8. Ms. Rorapaugh.

Ms. Rorapaugh: I recommend five years experience and then on section 8, it says page 14, line 11, I believe, has not been employed by Broward County or within any other governmental entity within Broward County. I would like to add that so every city attorney is – we don't have a slew of city of attorneys becoming Inspector Generals. No offense to city attorneys out there.

Mr. Wolfe: Doesn't it say anything already about governmental entity? Paragraph A, point of information.

Ms. Rorapaugh: Subject to the authority of the Office of the Inspector General.

The Chair: Can we do 1 and then we'll go through. Mr. Wolfe.

Mr. Wolfe: Point of information. Currently, the local bill cites seven years experience but I don't know if we want to the local bill. It might not matter.

Ms. Rorapaugh: That works for me.

The Chair: Mr. Scherer.

Mr. Scherer: The older I get, the more I know of how little I knew when I was 26. So I graduate from college and I go out to work for five years. I'm 26 years old and I can qualify for the Inspector General? I don't think so. I think you need ten years of experience.

Mr. Teitler: In Miami-Dade, it's ten years.

Mr. Scherer: This is a big-time job. I don't think five years does it.

The Chair: Any opposition to ten years? Mr. Teitler, after section 1, person who says to add –

Mr. Teitler: That's just to indicate that we are going to have to discuss this issue with something to add.

The Chair: But nothing after that sentence?

Mr. Teitler: No.

The Chair: Gotcha. Moving forward.

Mr. Wolfe: In the local bill which you know, there's a paragraph left out. I don't know if we want to include it. Highly qualified candidates who have auditor related skills and it listed CPA designations, and investigator investigations in that paragraph and I wondered if we wanted to insert that. Under local bill – paragraph F, it says highly qualified candidates who also have audit-related skills and/or hold one or more of the following professional qualifications at the time of the selection; Certified Inspector General, CIG, Certified Inspector General Investigator, CIGI, Certified Inspector General Auditor, Certified Public Accountant CPA, or Certified Internal Auditor, or Certified Fraud Examiner.

The Chair: Mr. Teitler.

Mr. Teitler: The intent of this document for the County Commission was that the Inspector General would use the Broward County Auditor as a resource so you know, there probably would not be the need for the Inspector General to have that qualification.

The Chair: I believe that the Inspector General is going to make requests of all County departments for information. I am not comfortable with the definition that we would use the County Auditor as a resource. I believe that it brings that conflict right back in house again.

If we're saying that he will seek information from the County Attorney, from the County Administrator, from the County Auditor in the performance of his investigation and in the performance of his duties, I am good with that concept. I just don't know how we agree to it that he uses him as a resource. That's like he's part of his staff and that brings that conflict right back into the County. Mr. Scherer.

Mr. Scherer: I think the way this is written, it looks like it's going to be a layers and I like that provision in the state/local bill because in my experience, a lot of these Inspector General people have an accounting background, forensic accounting background which involves a lot of legal knowledge also which we ought not – we certainly can put it in there that the Selection Committee doesn't have to choose somebody as long as – but I like that provision. I thought that was good.

Mr. Wolfe: Correct. Mr. Chair.

The Chair: Mr. Wolfe.

Mr. Wolfe: Subsequent paragraph after that – it wasn't to restrict the Selection Committee. It was to give them guidance. It also said in paragraph G., a candidate besides having a background in A - F above shall also have

experience in the management of private business or in a public entity or subdivision therein. And I think that's just to give the Selection Committee guidance in the type of candidates that they want to look at.

The Chair: Mr. Fink.

Mr. Fink: I couldn't agree with Mr. Wolfe's comments more that there should be something in here that they have some degree of experience in the private sector because there is a degree of expertise that you gain in the private sector that you do not get in the public sector and even at the state level, when we went to the Broward Delegation, it was brought up by a couple of the state delegates that they thought it was important that the individual chosen have some business background to bring to the table.

The Chair: Ms. Coward.

Ms. Coward: Maybe I need Mr. Wolfe to read the part about the auditor again because I thought initially I read it was going to be like a requirement or one of the qualifications that you had to have that experience. But it seemed it was something the Selection Committee could consider but not mandatory. So I'm confused.

The Chair: Mr. Wolfe.

Mr. Wolfe: I'd be happy to. The two paragraphs that are in the local bill that are offered as a draft is paragraph 9 that would be in our bill. It just says, highly qualified candidates who also have audit related skills and/or hold one of or more of the following certifications at the time of the selection: Certified Inspector General, Certified Inspector General Investigator, Certified Inspector General Auditor, Certified Public Accountant, Certified Internal Auditor, or Certified Fraud Examiner.

Then the next paragraph says a candidate, besides having background in subsection A – F, which we would have to renumber, shall also have experience in the management of private business or a public entity or subdivision therein.

The Chair: Ms. Coward, any further questions?

Ms. Coward: No, no further questions.

The Chair: Mr. Scherer.

Mr. Scherer: Yeah, I think that language is appropriate there. I don't' think we should state they have some – can't come out of the private sector, public sector. It says management in the business or in the public sector in a managerial capacity.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: Yeah, I just want to make sure that's the intent of the language. Because FBI agents, you know, Auditor Generals, etc., etc., tend to be in public entities from the beginning to the end of their career.

Mr. Scherer: Military – wouldn't want to exclude anybody.

Ms. Rorapaugh: So I would just want to make sure private sector experience is not the requirement, but rather a step in as opposed to public sector.

The Chair: I would caution us that that we don't get so busy in the language that we come under scrutiny that there's somebody out there that we're after. Must have this, this, this – must have a black suit with an orange tie.

We have to be careful. We're going to agree on a Selection Committee here shortly and we need to trust and empower that if they have some criteria that they're going to select the best Inspector General to serve the residents of Broward County so I just think some of the dialogue is bringing us down a road that we're really eliminating the field to some extent, people will begin to say that was written for no other than these three people. Mr. Scherer.

Mr. Scherer: I don't think that at all.

Ms. Rorapaugh: No.

The Chair: Well, I'm not talking about the specific language there but there's been several recommendations to add this and eliminate that and I just don't want to put the Selection Committee in the box where there's somebody out there that would serve the residents well and we have confined it so much that they can't go after that person. Mr. Scherer.

Mr. Scherer: I agree. I want to talk about paragraph 8 whenever we're ready – that's with the two-year prohibition – that they can't have been employed by Broward County or any other governmental entity subject to the Office of the Inspector General during the two-year period prior to the selection.

The Chair: The floor is yours, Mr. Scherer.

Mr. Scherer: Was does that mean exactly? I understand that you can't take somebody out of the County for two years, but does it limit to anybody else subject to the authority of the Office of the Inspector General which would be just the County, right?

Mr. Teitler: That would be the County Commission, right.

Mr. Scherer: So it says Rob, you couldn't get this job even if you wanted it, right?

Mr. Teitler: For two years, right.

The Chair: Has he submitted a resignation yet? Just kidding.

Mr. Scherer: It does not apply to city -- Robin, you made a comment about city attorneys but any city attorney – an existing city attorney could apply for this job.

Ms. Rorapaugh: And again, this is not to besmirch the city attorneys in Broward County municipalities. And I think that a city attorney – I just would rather this be a person who comes in without relationships with cities, School Board, Constitutional Officers, quasi-judicial boards and appointments from 2 – 5 years before they get this job. I think the Inspector General need not be another well-connected Broward County attorney.

Mr. Scherer: That paragraph does not say that.

The Chair: Mr. Fink.

Mr. Fink: I have to believe within Broward County, Palm Beach County, or Dade County, tri-county area, or the country, wherever that search is, there has to be somebody who has not been employed by Broward County, not only for two years, but ever, that is capable of filling this position.

And I think if we want to make sure as the Chair has stated repeatedly this morning, that we want to make sure we sever that connection that I don't think it should be anybody who has ever been employed by Broward County, period. And eliminate that whole thing. That has not been employed by Broward County or any other governmental entity subject to the authority of the Office of the Inspector General and end it there.

The Chair: Ms. Coward.

Ms. Coward: I disagree with Mr. Fink. I think we should have a time period so there a little more removed. I just think it's unreasonable to say ever. It think we should include them in the candidate pool. And if the Selection Committee decides that's an attractive candidate, then they should consider that candidate. I think we should leave a time period in there and we can negotiate that and I think that time period should definitely be in there and whatever that time period is, maybe we should apply to other city municipalities or etc., like Robin suggested.

Mr. Bakalar: Mr. Chair?

The Chair: One second, Mr. Bakalar. I would agree. A term is four years for a County Commissioner. I don't – like I said. I don't want to create a box so tight that we have to – the Selection Committee – we won't have anything to do with it – will have to overlook a qualified candidate because four years ago they served as a city attorney in Wilton Manors as an example. Don't know if the City Attorney for Wilton Manors is interested in the IG position. It's just an example

Again, we're going to empower a Selection Committee here. We're going to have to agree on who that Selection Committee is. If we give them some parameters, let them find the best candidate to serve the residents of Broward County. We're not the Selection Committee. We can set some parameters, but let's not make it so tight.

I agree. Two years, you're too involved. There's still issues on the agenda that are two years old that you may have been involved in at one point in one role and now you're coming back to look at in another role. Terms are four years. If you're not comfortable with four years, five years. But let's not disqualify a qualified candidate because – we're never going to eliminate the entire perception issue.

Again, I am not going to beat a dead horse here. But let the Selection Committee find the best candidate to serve the residents of Broward County. Mr. Bakalar.

Mr. Bakalar: I agree with Howard and you about the two-year period. I am also wondering if we want to throw in having held public office. Again, we're not talking about politicians here. We don't want it to be a landing strip for a term limit. Also, technically, would this be a County employee? I just want to make sure the IG is going to be subject to the same ethics rules that we're creating right now. That they don't have spouses or significant others that can lobby and that sort of thing.

The Chair: Could everyone hear Mr. Bakalar?

Mr. Wolfe: I lost him there a little bit.

The Chair: He just wants to make sure the same rules apply to the IG. That they can't have a spouse or significant other, domestic partner, that is lobbying before the County Commission. Great point. Members?

Mr. Wolfe: We're just debating what the timeframe is going to be, right?

The Chair: I believe so. Right now there's – did I hear a recommendation that there's a total prohibition of County employees, and then a time period for anyone else, or was that for everybody?

Ms. Rorapaugh: I think we had a consensus was on five years.

The Chair: Mr. Fink.

Mr. Fink: I find it hard to believe we are tying the Selection Committee's hands, that on a national search that they can't find somebody to fill the criteria that haven't been employed by Broward County at any time in the past, or held elected offices, and I don't see that tying your hands. You're doing a national search here. You're not searching the tri-county area.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: But if I was a lifeguard for Broward County or I worked with the Parks Department, I would be disqualified. Even though I'm the Deputy Director of the FBI. That's why that type of absolute language can have unintended consequences.

The Chair: Any further discussion on this issue?

Mr. Fink: Then we have to agree on timeframe.

Ms. Rorapaugh: And are we going to open it up to Howard's idea of elected officials?

The Chair: Let's open it up for the timeline. Anyone have any opposition to five years? Good. I think it's an appropriate time. Whether we discuss it now or not, I want to make sure that item is agenda'd and that we address – I don't know where it would go within this section but there's some clear language that holds the IG to this same Code of Ethics.

Mr. Scherer: The IG is an employee of the County.

Mr. Teitler: Well, we could indicate that the IG is a public official. We could put that within 1B.

The Chair: So are you saying because of that, there's no need to then say and as such, is subject to? I don't need to be redundant if it's clear in everybody's mind that that's the intent. Mr. Bakalar, are you good with that?

Mr. Bakalar: Yeah, as long as it's clear and I was just unclear as to technically whether this person was a Broward County employee or not.

Mr. Teitler: I could put paragraph 13 on B, just indicate the IG is a public official of Broward County.

The Chair: Thanks, Mr. Teitler. Any further discussion through number 8 before we move on?

Mr. Wolfe: Are we going to add those additional paragraphs to come back and look at. The minimum qualifications would be the auditor –

The Chair: Yeah, that language will be inserted.

Ms. Rorapaugh: And are we going to discuss Mr. Bakalar's idea of exempting former elected officials? Because I think some of us might have some opinions on that.

Mr. Bakalar: Some of us do, thanks, Robin.

Ms. Rorapaugh: I'm sorry –

The Chair: He said "I'm sure some of us do, thanks Robin." Ms. Rorapaugh.

Ms. Rorapaugh: I would – I think if we have a five year restriction on people who have held elected office within Broward County government to five years that would take care of the concerns that may be on the public's mind. I think if we – because judges are elected in Florida, State Attorney's are elected in Florida, County Attorneys are appointed in Florida, but all of our judicial system is elected in Florida so that exempts any judges. It exempts any person that has been elected to Federal office.

So I worry that we are constricting the pool. It also restricts a former State Attorney or Public Defender. That may be the purpose but maybe if we put a time restriction as opposed to an absolute restriction on former elected officials, because, man, there are a lot of things that you can run for in Florida.

Mr. Bakalar: I agree with a time restriction rather than an absolute prohibition.

Ms. Rorapaugh: So to have not served in an elected office for five years.

The Chair: Does any member have any opposition to that recommendation?

Mr. Teitler: Elected office in Broward County?

Ms. Rorapaugh: No.

Mr. Bakalar: I am okay with Broward County, personally.

Mr. Teitler: Within Broward County.

Mr. Fink: Why not just say elected office?

Commissioner Shechter: But if you have someone from Delaware that qualifies in all respects but he held an elected office a year ago –

Mr. Scherer: Florida?

Mr. Fink: Make it for Florida? I mean, on one hand you're saying we're restricting the Selection Committee and we're doing a national search so you want to keep that available.

Mr. Scherer: Do we want to term limit legislators?

Ms. Rorapaugh: No. Well, I don't know, it's up to the Selection Committee.

The Chair: I'm good with the County. But again, why limit their pool? If they think there's a conflict with someone from Washington, let them determine that. Leave it outside of the County.

Mr. Scherer: I don't want them to have the authority to have a former elected legislator.

Ms. Rorapaugh: Well, someone who was elected 20 years ago – I think the five year restriction takes care of that.

Mr. Wolfe: I like the five years.

The Chair: Five years within the County?

Mr. Wolfe: Five years – elected official.

Mr. Fink: Within the State of Florida. I agree with that.

Mr. Scherer: State of Florida.

Ms. Coward: The state is a good compromise.

The Chair: Mr. Collado, did you have a comment?

Mr. Collado: I think five years within the State is a good compromise.

The Chair: Any further comment?

Mr. Collado: And just to add to that, any further determination can be made by that committee, whoever selects them and does the right investigation, and probing and questioning, then conclusion as to who would be the best person.

The Chair: Any further comments on that section? We're moving to Section 2; Selection; A, B, and C, entire section 2. Mr. Scherer.

Mr. Scherer: Are we sure the Chief Judge will be permitted to serve? And I only know that the JQC, Judicial Qualifications Commission – you will recall we had a judge on this panel, she was excluded because this was deemed political.

Mr. Wolfe: Point of information, Mr. Chair.

The Chair: Mr. Wolfe.

Mr. Wolfe: The language we have in front of us differs slightly than the local bill, which I approve of the local bill language with some review. The local bill Selection Committee which is still a work in progress, says one person chosen by the Chief Judge in the 17th Judicial District. One person chosen by the Broward Legislative Delegation, and then it cites the Mayor of Broward County, the State Attorney, the Public Defender, the President of the Broward County Police Chief's Association, my understanding from talking with Sandy Harris the other day, I believe the local bill is including the Dean of the Law School here to make the Selection Committee not an even number and so I think we complete that language by saying one person chosen by the Chief Judge and one person because that is removing the judge. The judge would make the selection.

The Chair: Mr. Fink.

Mr. Fink: If we're worried about that then I think Bill brings up a valid point about whether or not the judge would be disqualified, but since we stated the judges in Florida are elected, it's a political event, or it's a political process. Having the judge choose somebody brings it back in to the realm of –

Mr. Wolfe: But it's in the local bill.

Mr. Fink: That doesn't mean the local bill is right. I'm just saying that, to me, it's a conflict because now you are re-politicizing by allowing them to choose somebody and now you're going to try to influence that judge as to whom he's going to choose on the Selection Committee.

Mr. Wolfe: No, we're not.

Mr. Fink: You're not, okay. But that doesn't mean somebody in the political process because he has a campaign manager and he raises funds for election and he goes out and campaigns, so to have the judge choose somebody is different than having the judge. And if the judge is not allowed to serve, that becomes a different story. But certainly the State Attorney and certainly the Public Defender are elected.

The Chair: Mr. Scherer.

Mr. Scherer: I think we ought – a couple of things in trying to determine the Selection Committee. It seems to me that if we had public officials that didn't have to volunteer, but were paid to be public officials that we could put on this Committee and then we could give the Selection Committee more duties than just making a selection and going away for five years. That we could give them more duties to monitor the Inspector General, to have the Inspector General to report to them periodically and so that if they had more duties, it seems to me, that having paid, public officials would be a good thing as opposed to volunteers.

And the way we get to the Chief Judge appointing, you're going to get a volunteer probably. It doesn't say that. I frankly like these three individuals better than the local bill because --

Mr. Wolfe: Are you sure it doesn't violate the judicial –

Mr. Scherer: As long as the judicial candidates allow it. If not, who else other than – I know the State Attorney can do it. I believe the Public Defender can do it. I think the Chief Judge can do it, but I'm not positive on that. I like the idea of having three and I think we can think of an alternative to the Chief Judge after we vet whether the Chief Judge can do it or not. Or we can have an alternative position if we determine the Chief Judge can't do it.

I don't know who would that be, but somebody like the Chief Judge or the Public Defender or the State Attorney.

The Chair: Ms. Coward.

Ms. Coward: I was just going to suggest that we have these positions as a primary – that we prefer to have these positions represent the Selection Committee, or in the alternative, their appointee.

My concern is if we were to have one of these positions, what if the appointee does not want to serve on the Selection Committee? Then what do we do? Are they forced to by nature of us passing this? They are forced to expand their duties as a result. I don't think we have the power to do it. But I like

the makeup of it, the Chief and the State, but I think we should have the option of the appointee if someone refuses or has no interest in serving.

Mr. Scherer: That's a good point.

Mr. Teitler: I think that's what Palm Beach does.

Mr. Scherer: What's that?

Mr. Teitler: Appointees.

Mr. Scherer: The problem with appointees, people are volunteers.

The Chair: Mr. Wolfe.

Mr. Wolfe: I think you gave a good point. What if a Constitutional Officer says I'm not going to participate in this? I think you have to have an appointee process. We're all volunteers at this table. I started this process, I had doubts whether we were all going to be on the up and up and all work together in a collegial fashion and be honest in what we're doing. And we are. And I think that's in deference to the people that appointed us and our character and everything.

I mean we can move some language forward but I think we need to have some other language in there in case there's a problem.

Mr. Scherer: So we were all serving a misdemeanor sentence of less than a year. This is a five year deal.

The Chair: More like a death sentence.

Mr. Scherer: They ought to get paid to do it. That's how I feel about that. Especially if we give them more duties which I would like to talk about when we get there.

Maybe having more designees is where we have to go on that. I feel that all three of those individuals that currently serve those office have had an opportunity to say no and I think they're all receptive to it. I know that Mike Satz there ought to be five, not three. But I don't agree with that.

The Chair: I have a great level of discomfort with the composition under the local bill for various reasons. I'm a little uncomfortable with this all though I think it's a great compromise for appointees. Because I think Mr. Fink brings up a very good point. One only has to go to a Broward Days event to see this same group rubbing elbows with all the elected officials in the County.

Mr. Scherer: You won't ever see any one of those three at Broward Days ever, in my opinion.

The Chair: I have.

Mr. Scherer: You've seen Mike Satz there at Broward Days?

The Chair: I've seen a couple of them. If it's not Broward Days, it's the Broward League of Cities, if it's not that, it's Broward Days up in Tallahassee.

Here's my point, if I can finish my thoughts.

Mr. Scherer: I'm sorry.

The Chair: There is a perception that we've said from day one, we want to try to avoid it and I'm the first one to say you can't legislate perception. But the fact of the matter is that everything that we've been addressing, is either real or perceived in someone's eyes so you talk about politicizing a process, they're all elected officials, if you review campaign contributions of County Commissioners and those elected offices, much of the same contributors are on all of those reports.

So again, not to say that they all cannot make a unbiased –

Mr. Scherer: How are you going to get a committee?

The Chair: I don't know. That's why this is my opinion and I want to make sure that everybody hears it before we agree on one or the other. There could be other people. I don't know what those are. That is why I had some angst with the local bill. How do we have a County Commissioner, the Mayor of Broward County involved in selecting the person that is going to be auditing them, or investigating them? I have great angst with that.

Do I think the County Commissioner is going to do anything inappropriate in selecting? No, but the perception is certainly there. So if you agree or not, it's political. How we get outside that political realm, I don't know. But proceed with caution is how I'm approaching this. Someone has to select them, and it's not us. And we are going to empower them to do so, and that person is going to hire somebody that is going to represent the Broward residents. Ms. Coward.

Ms. Coward: I understand the Chair's concern. But I don't think that can be avoided. We exclude these person. Let's say I were to be on the Selection panel. I might not be an elected official but I've certainly worked on numerous campaigns and go to those events, the Broward Days and everything else. I could be equally biased or more biased than these persons so I don't think we

can eliminate. Anyone who has been around Broward long enough has probably been involved in the political process.

So I think we have to have some faith in this system. We were all appointed by Commissioners and we're making decisions that's going to affect them. And we're able to do that. I think we can trust three of these people to appoint somebody that will do the job or to appoint someone to do the job and we have to have some faith at the very minimum and these elected officials can at least appoint a committee. There will be items that look like we'll have problems with but I'm completely supportive of this makeup of adding the clause of their designee or their appointee.

The Chair: Mr. Scherer.

Mr. Scherer: I think she expressed my thoughts on this.

The Chair: Since we've changed it from these people to potential appointments of these people, should we look at establishing some criteria – we know who these people are and we know what the qualifications are. Should we look at potentially establishing criteria for their appointees if they choose not to take the appointment themselves? Ms. Rorapaugh.

Ms. Rorapaugh: Thank you, Chairman. I think Mr. Scherer said something that we need to go back to that is very real. These are public officials who are paid by taxpayer dollars and we are adding to their roles basically. Unless there is a conflict between our ability to designate and give them those assignments, unless there is a conflict, I think we should hold them accountable.

I think once we get into appointments – the Governor of this state appoints the judiciary selection committee that has given – that has had problems here in the 17th circuit. Every time you move from the office holder who actually has to be accountable to their designee, it's once removed. And sometimes unfortunately, the job gets sloppy.

When you run for Public Defender, or when you become the appellate court that has the appellate court or when you run for State Attorney, this should become part of what you do.

The Chair: Ms. Coward:

Ms. Coward: I don't have a problem with that idea but I don't think we have the power to do that. Maybe that is great if they want to do , but if they don't, we can't make them.

Mr. Fink: I think we can.

The Chair: One second, Mr. Fink. Let Ms. Coward finish her thoughts.

Ms. Coward: I don't think we have legal authority to do so, so we have to envision a possibility that if we have someone who doesn't want to do it, what do we do then?

To answer the question about staff, to use resources that already exist, maybe if they're interested, maybe we can have something about the designee being someone from their office so they'll still be using their same budget or same resources to have. It's either them or another judge if it's not a problem, or the State Attorney or his chief if he's not interested in doing it. That way we can use the resources still but still have an option. You have to have some backup plan or it's useless.

The Chair: Mr. Teitler, a legal opinion?

Mr. Teitler: Well, I think some of these positions are created by statute so you can't get into infringing those powers. So you're better off, as was discussed, the Chief Judge or his or her appointed designee. But that's assuming the judicial canons will allow the Chief Judge to serve.

The Chair: Mr. Wolfe.

Mr. Wolfe: I agree that in a perfect world they should, and I hope they all participate and do it themselves, but if you think we need to have an appointment as a safety valve, because they are Constitutional Officers, and Constitutional Officers are not subject to the County Charter.

The other thing is if we allow an appointment process, there is language that we can pull off the local bill. Like no member of the Selection Committee shall be – these are regarding appointments – shall be an elected or appointed official or employee of the local government in Broward County with a time certain and blah, blah, blah. I mean, we can pull a couple of sentences out of there to define what those appointees might be.

The Chair: Mr. Fink and then Commissioner Shechter.

Mr. Fink: I am going to defer to Carl.

Commissioner Shechter: Thank you. I'm struggling with the concept that all three of these appointees to the Selection Committee are political people. They are all elected, they all have ties to Broward County and at that level, they certainly have very involved ties with Broward County and if it's them or their designee, over whom we have no control, you open the process to skewering the entire process for everything we've done. Can go right down the tubes by the selections they make at the Selection Committee to choose an IG.

And I'm not comfortable with this at all. I think we should have independent people on this Selection Committee and it doesn't have to be three of our top elected officials in law enforcement area to do that. I don't think law enforcement is the crux of the appointment of an IG for an Ethics Commission. Two separate and distinct areas and I'm just not comfortable with this at all.

The Chair: Mr. Fink.

Mr. Fink: I would like to piggyback on that and suggest the President of Broward College, who is not a political appointment to my knowledge, or not an elected official, or someone of that ilk, and someone mentioned the Dean of the Law School. And there are law schools and law professors that specialize in ethics and things like this.

But we're politicizing the process and everything we've done for the past year goes down the tubes because you're allowing them to first of all – and I would like a legal opinion on this – if you're saying they're Charter officers --

Mr. Wolfe: Constitutional Officers.

Mr. Fink: Because they're Constitutional Officers we have no control or authority over saying this will be part and parcel of your job?

The Chair: Correct.

Mr. Fink: Then I think we need to get this out of the realm of politicizing it because that's my greatest concern, that everything we've done for the past 12 months is going to go down the tubes and let's go to the scholastic community and let's go to the community that is not subject to the influences of the political community and I think there are people in the community at the educational level, maybe not the School Board, but at the college or law school level or some other level where you can find people to make the selection because the perception is reality. To anybody and any individual, their perception is their reality.

The Chair: Mr. Fink, I agree with you and Commission Shechter. You heard my comments earlier about this being politicized. Greater than that, it's three members politically elected to the judicial branch. There's no wide spectrum of representation.

While I agree with your recommendations for the President of Broward College or a Dean of a Law School. If we write it in the code, we have no idea whether they want to accept it or not. So if we put in the President of Broward College, short of someone saying I spoke to him and he's more than willing to serve, we don't know that. He may say I don't want any part of it. Thanks, but no thanks.

So how do we put in a specific person rather than the Present of a College or University, the Dean of a Law School located within Broward County? I don't know what that is. I fully agree with broadening the composition of that group and maybe not wiping out all three of those but certainly making sure there is other representation outside of the political realm within this County. Ms. Coward.

Ms. Coward: My only concern with the proposal that you indicated, you put a Dean, then the Selection Committee needs a Selection Committee. So we would need someone to decide who's going to select the Selection Committee that creates a host of other problems. We have to have a position or their designee. That's the only way we're going to get around that problem.

The Chair: Then perhaps between now and the time we take a final vote, members solicit those who may be willing to serve and bring back some specific recommendations. I don't know – maybe it's not a college. Maybe it's a business owner.

Mr. Wolfe: A business person like Broward Alliance –

The Chair: I'm not focusing on one area. My recommendation is that we broaden the scope of the composition. What that comes from, it could be a member of the religious community. I don't know. My point is that we take it outside of a political entity, specifically limited to the judicial branch and broaden the scope. Ms. Rorapaugh.

Ms. Rorapaugh: And I'm sorry, I meant to look this up yesterday and who is on the Selection Committee for Miami-Dade and who is on the Selection Committee for Palm Beach?

The Chair: While that's being looked up by Mr. Teitler, Mr. Scherer?

Mr. Scherer: Yeah, Mr. Chair, it's not the judicial branch, it's the Administration of Justice in the County. The State Attorney is not in the judicial branch. The State Attorney is the chief law enforcement official, a prosecutor elected by the people. And the Public Defender is a defender that defends but is not part of the judicial and the Chief Judge is elected by the 130 judges that serve – he is elected as a judge or appointed, but you know, I believe and I think the Legislative Delegation did when they drafted this, that there's enough checks and balances there that these folks are not going to politicize the process. They are going to look at this as a task that they have to do. So I think we're trying to get too fancy.

The Chair: I apologize, Mr. Scherer. I misspoke. Three members that are in the courthouse that are all from the same building and do the same work in the legal system.

Mr. Scherer: They sure are checks and balances. The Public Defender and the State Attorney are at odds all the time. And the judge is in the middle.

The Chair: Let's get the response to Ms. Rorapaugh's question and then we'll go to Mr. Wolfe.

Mr. Teitler: The Miami-Dade County Selection Committee is comprised of five members; the State Attorney of the 11th Judicial Circuit, the Public Defender of the 11th Judicial Circuit, the Chairperson of the Miami-Dade Commission on Ethics and Public Trust, the President of the Miami-Dade Police Chiefs Association and the Special Agent in Charge of the Miami field office with the Florida Department of Law Enforcement. That's Miami-Dade.

And the Palm Beach County Ordinance, the Selection Committee is comprised of the Commission on Ethics, the State Attorney for the 15th Judicial Circuit or his or her designee, and the Public Defender for the 15th Judicial Circuit or his or her designee. So they're consistent in that regard in terms of the State Attorney and the Public Defender. Except there is no designee with Dade County, just the State Attorney and the Public Defender.

The Chair: And there's other representation. Mr. Wolfe.

Mr. Wolfe: I think Miami-Dade counsel is Charter – they are a Charter also, in Miami-Dade.

(Mr. Bakalar disconnected via teleconferencing at this time.)

I believe. I don't know. I think – my belief – I understand everybody's concerns here but I think we can address some of those concerns. I firmly believe these three folks or their designees should be on this committee and putting some qualifications on the designee and if we want to, putting in other person or representative – other aspects might be good. Two. Yeah. Because we want to make it an odd number.

Mr. Shechter: Not four or five.

The Chair: Ms. Coward.

Ms. Coward: I agree with Mr. Wolfe. I agree that we should have those three but not opposed to have other representation in the community; a business person or in the scholastic area or even their representative. So if we are willing to expand to five, I thought the County Commission wanted to make it more

narrow but I'm not opposed to expanding it. We could address those other concerns and make sure other interests are represented.

The Chair: Let the record reflect that the Chair of this Ethics Commission has absolutely zero interest involved in that selection process. Ms. Rorapaugh, did you have a question?

Ms. Rorapaugh: No. Mr. Fink.

Mr. Fink: I was going to suggest that we were going to get the Chair of the Miami-Dade and the Palm Beach Ethics Commission to be two of the three, but I wouldn't be opposed to expanding from three to five, and adding the Dean of the local Law School or someone from the higher education community and/or respected business man and that way, we're at least diluting it enough and spreading it enough so that we have two known non-political entities sitting on the Commission, the Selection Committee.

The Chair: Commission Brunson.

Commissioner Brunson: I would suggest that instead of designating as this person or that person for the last two seats; just leave it open and save those last two seats and they can be comprised of this, this, and this. Because if you designate and say one person from the school and one person from that, what happens if you can't get it.

But if you leave the two seats open and say they can be comprised of either someone from the religious community; President of a university, Dean of a law school, and that way you're able to find or pick and choose who those two seats may be filled.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I think those are some good thoughts. I do think of all the ones that we do not have in our current draft, how many FDLE field agents, whoever represents that, makes a lot of sense. I'm very, very dubious of having the head of the Police Chiefs Association sitting on this.

Many of you are city officials. I just think that that gets us into PBA and a lot of politics that we don't need.

Mr. Teitler: I think for those last two positions, you have to be specific because you can't leave that open to where there's potentially no members; only three members of the Selection Committee. You have to be specific. You have to identify who the person is.

The Chair: I could support the recommendation of – and I believe it sits on one of the others – I believe it was called the Special Agent in Charge of the local field office for FDLE. Again, what if he or she says I'm not interested? We put it in our code, we move forward, and they say no thanks. Is there a way that we could reach out and find out whether – before we bring this to a final conclusion – they are willing to serve or not willing to serve as a member of the Selection Committee? How do we put something in here not knowing whether they are willing to serve?

Mr. Teitler: Well, you could even put on that – his or her designee from that department.

The Chair: Ms. Coward.

Ms. Coward: I was going to say it's almost impossible to get around or designee because even if we have the person in the current position say yes, I'm willing to serve, another officer may come in.

The Chair: Good point. Mr. Wolfe.

Mr. Wolfe: And the other thing is when we are grappling with this stuff because it's hard. You can't love this stuff to death because I'm still under the impression it's going to be supplanted by state bill.

And that's a whole other angle and that's going to be subject to a lot of negotiations but the state bill is not going to go away.

The Chair: Mr. Scherer.

Mr. Scherer: I think we need some language in there – I think we have to put designee in there because we can't make them serve. But can we put some language in there that we prefer they don't designate; that the office holder serves but failing that, their designee. Something like that – write it some way – because they might, you know, read the language and because they are political animals, would, because we ask them to, serve, rather than designate.

The Chair: Okay. Is there any opposition to accepting the recommendation that the Special Agent in Charge of the local field office for Florida Department of Law Enforcement or designee be added as the fourth member of this Selection Committee? None being heard. We still need to get one more. Ms. Coward.

Ms. Coward: To kind of address what Mr. Scherer was saying, if we were to put in there that the appointee shall be the Chief Judge, blah, blah, blah, or if the Chief Judge is unwilling or unable to serve, then their designee. Nobody

wants to say they are not willing and nobody wants to say they are not capable. They'll probably want to serve then.

Mr. Wolfe: That's a pretty good idea.

Mr. Fink: Did we agree to expand it to five?

The Chair: I believe so. There's no opposition to four, so we're looking at a fifth position.

Mr. Wolfe: Someone in business.

Mr. Fink: Either in business or an academician.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I would support an academician as opposed to having an entity, whether it's the Chamber of Commerce, Broward Workshop, I think an academician is cleaner, straighter, and less political.

Mr. Wolfe: Dean of a Law School.

Ms. Rorapaugh: Of a law school within the boundaries --

Mr. Wolfe: Well, we have to say. We only have one.

The Chair: We only have one. Here we go. Mr. Fink. Go ahead, sir.

Mr. Fink: I'm still uncomfortable with designee but I think her idea of putting the language in will close that loophole. But that would be the only individual; the academician, the Dean of a Law School, and/or his designee would be about the only one and then it's consistent. And I think that kind of broadens the scope. Failing that, it would be either the Dean of the Law School or the CEO of a business entity with X number of employees or greater and who does not do business with Broward County. So I think the academician.

The Chair: I'm okay with that recommendation, however, we are going to put that in and the Dean of the Law School, or the Board of that school may say no, we're not getting involved in that process and I'll support it. I think it's a good compromise. It broadens the scope of the composition. What I would like is that if we agree to move that, then there is an attempt by staff to contact that office immediately and let us know prior to the – I don't want to go through another debate – the last meeting. The intent is to come here, have prepared and read the final draft, make any final comments that we'd like to make after a year of service and vote. So that's the plan. Could change.

With that being said, if we're going to say that, we need to confirm that they are willing to do that and come in with other recommendations should they not be. And maybe some specifics. Let's go to staff for a point of information.

Ms. Cepero: A point that was previously made, we can get a confirmation, let's say that person is willing to serve and they get a job offer and leave the state next month. The next person, you don't know – or five years down the road, same situation.

The Chair: And again, that applies to the Public Defender, the State Attorney, they don't' get reelected, the next one may say they want to or they don't want to and they have to have a --

Mr. Fink: It's not the person, it's the office.

The Chair: An appointee, right.

Mr. Fink: But it's not the person, it's the office.

The Chair: If they are willing to accept it, we don't have a right to make them accept it. Mr. Scherer.

Mr. Scherer: Why don't we put in there that in terms of that happening, where a designated officer does not want to serve or cannot serve, that Selection Committee will then fill that vacancy using their best discretion.

The Chair: Absolutely, because we're going to be gone. Someone is going to have to do it. I agree.

Mr. Scherer: So let's just do that. Then we put the language in that we hope the people we designate, serve.

The Chair: My thought as well.

Mr. Teitler: And that is in lieu of designee?

The Chair: No.

Mr. Teitler: In addition to, just for those two? Not for the first three.

Mr. Wolfe: Put them for all of them.

Mr. Scherer: I think you have to put designee for all of them but put the language in there that we hope they don't designate. And then get language in there that if for some reason the people the office designated, will not, cannot, will meet and fill that – make that an obligation.

Mr. Teitler: For all five or just two?

Mr. Scherer: For the vacancy.

The Chair: All five positions.

Mr. Scherer: All five positions ought to be, or designee. But put in language that we don't want them to designate. But they fill the vacancy if there is a vacancy created by inability to serve.

The Chair: Let me try to recap so we can move forward. Right now we are looking at the three proposed positions that are in the current working draft. We're looking at adding the Special Agent in Charge of the local field office for Florida Department of Law Enforcement, and we're looking at the Dean of Nova Southeastern Law School because I'm understanding that it's the only local law school, and his or her designee.

And there will be a provision written that says although we want them serve and encourage them to serve, if they fail to fulfill their obligation for whatever reason, that the Selection Committee will fill that position.

Do we want to say that there will fill that position from the same field or will fill that position and let them deal with it? Mr. Teitler.

Mr. Teitler: Can I just get clarification on this? You're saying, for example, the Chief Judge of the 17th Judicial Circuit, or his or her designee, and maybe you want to insert in there -- you want to say the Chief Judge is unwilling to serve --

Mr. Scherer: I think you'd say after you'd tell who all those are that are designees, the next paragraph ought to say the Committee, or encourage the named office holders to serve, but that if any can't or unwilling to, or –

Mr. Fink: Or feel unqualified –

Mr. Scherer: For whatever reason, they fill the vacancy. The vacancy is filled by the Selection Committee itself.

The Chair: Ms. Coward.

Ms. Coward: Just for clarification, I was going to follow up with that as well.

Mr. Teitler: So if the named designee is unable or unwilling to serve.

Mr. Scherer: I mean if the named designee, Howard Finkelstein says I don't want to do it and I'm not going to do it, then the Committee will have to get together to figure out who to put in there from the Public Defender's Office.

The Chair: If he says I'm not going to do it and I'm not going to appoint anybody to do it.

Mr. Scherer: Yeah, right. I'm not going to be involved and I don't want to be involved in this process. You can't make me.

Ms. Coward: That was the clarification I was seeking. If Howard doesn't want to do it. He first get to appoint a designee. If he refuses to appoint a designee or his designee doesn't serve, then we go to the Selection Committee. But if Howard doesn't want to serve, he still has the action of appointing a designee, right?

Mr. Fink: Correct. And then, just to clarify what Alfreda said, using his theory of – in the next paragraph, should the member chosen, which is the Chief Judge or Michael Satz, should they feel unqualified or unwilling, or incapable of serving, then they can appoint designees. And that's the kind of language which you were trying to say which puts them in a box. Who's going to stand there and say I'm not qualified, I'm not willing, or incapable.

The Chair: Is there any opposition to the recommendations on the floor?

Mr. Wolfe: No.

The Chair: Hallelujah. Let's move on. We are on 3, Term. Let's take 3 and 4, E 1 through 3.

Mr. Fink: Can I go back for a minute?

The Chair: Mr. Fink.

Mr. Fink: Is there any reason why we are limiting to a Broward County Law School when you have Miami Law School right down the road and other law schools available. Why should we –

Mr. Wolfe: We have to appoint somebody. You can't say a law school. You have to say a law school.

Mr. Scherer: Can't leave it open.

Mr. Fink: You can't say the Dean of a Law School within the tri-county area?

Mr. Scherer: Unless we get this passed, we have to say which one.

The Chair: Okay folks, we have vetted this thing beyond anything we need to. Is there any other opposition to the specific recommendation of the Dean of Nova Southeastern Law School in Broward County? Okay, let's move on please. 3, 4, E1, 2, and 3. I will give the members some time to read. And you have a comment, Mr. Scherer, you have the floor.

Mr. Scherer: I think we should consider after 4, put .5, that – I'm thinking that the Selection Committee, in addition to make a selection every four years, ought to meet annually, at least annually, to have the Inspector General report to the Selection Committee that meets annually to supervise and to have the Inspector General make a report to, or recommendations to of kind of how you're doing so the Selection Committee meets at least once a year and also that the Inspector General can ask for the Selection Committee to convene to take up issues that are deemed to be important by the Inspector General, or something to that effect.

So I don't think they ought to make the selection and go away for four years. The Inspector General ought to have to come before them once a year and that I also think the Inspector General ought to be able to ask for them to convene for a special problem, that we can't just –

The Chair: I certainly agree with the first part because there is a provision within 3, that says the Selection Committee shall convene at least six months prior to the end of the contract to determine whether to renew the contract of the Inspector General or solicit so there needs to be a review process, and at least annually to review that is important because how are you going to make a determination to renew their contract or not f you haven't been involved in four years. So I certainly agree with that. I would like to discuss the other issue a little a more. Mr. Teitler, you had a question?

Mr. Teitler: Would that be something that you would want to include in paragraph G, Reporting, on page 17?

Mr. Scherer: Yeah, that would make sense. But yes, and put it – rather than posting it, should be reporting annually to the Selection Committee which is convening once a year.

Mr. Fink: And posting it.

Mr. Scherer: And posting it.

The Chair: Mr. Wolfe.

Mr. Wolfe: I think we need to put in there – I think you have to say somewhere in there the Selection Committee shall determine their own rules and procedures.

Mr. Scherer: And also – I think so too, and wouldn't the Selection Committee on an annual basis, want to review the performance of the IG so that they are not only supervising but they are reviewing and critiquing the performance of the IG. Does it say that?

Mr. Wolfe: It's under Reporting. We'll get to it on page 17 and you can tweak it if you want it to reverse because the IG provides an annual report which you might want to have that mutually reviewed so you might want to tweak that language. That's a couple pages back.

The Chair: I hear what you're saying. I want to make sure that the IG remains as independent as possible. Someone has to review his performance annually and make a decision whether at the end of the four years, you're going to renew his contract. I want to make sure that we're going to provide so much oversight that he's no longer independent and he's responding to the will of a Selection Committee. They put him in place so let him go. Ms. Coward.

Ms. Coward: I'm in favor of having the annual meeting, annual presentation with a report to the Selection Committee which is the first part of Mr. Scherer's recommendation and I don't know if we want to do that at a minimum of one year. I don't want to necessarily give the Inspector General the power to call meetings whenever he wants to. I can't envision why he would call a meeting of the Selection Committee but I think the Selection Committee – I think maybe we should consider of having an option that they could have a meeting more frequently than once a year if it was necessary.

For instance, if there was a complaint that came up about the Inspector General, whether or not a challenge for good cause. They may have already had their annual meeting so the Selection Committee may need to call another meeting to figure out whether or not there was a basis for such. We need to give them the power to meet more than once a year, but only require for once.

The Chair: Mr. Scherer.

Mr. Scherer: That's a real good point. I think we should put in the language that they meet once a year on a mandatory basis. They see this report and on a majority vote of the Selection Committee, more often as they deem appropriate.

The Chair: Yeah.

Mr. Scherer: That could be a request from the Inspector General, that could be a request from the County Commission, it could be anything.

The Chair: I like that recommendation. A majority vote of Selection Committee if they're requesting a meeting, but does it have to be a majority vote if the Inspector General is requesting to meet with them?

Mr. Scherer: I would think it's just a majority vote of the Commission if they want to have more than an annual meeting; give them the power to run their Selection Committee.

The Chair: So if the Inspector General feels like he needs some input or direction from the Selection committee, he needs a majority of them to meet?

Mr. Scherer: Ask for it and if a majority of them agree, then they ought to meet.

The Chair: And if they say no?

Mr. Scherer: If they say no, then he can wait a year.

Mr. Wolfe: And the Selection Committee shall determine their own rules and procedures.

The Chair: Gotcha.

Mr. Scherer: And maybe we ought to change the name from Selection Committee to Selection & Supervising Committee or other name.

Ms. Rorapaugh: Oversight.

Mr. Scherer: Selection and Oversight. Thank you.

The Chair: Any other comments? Mr. Teitler, you have that?

Mr. Teitler: Yeah.

The Chair: 3 D, E - 1, 2, 3.

Members, do you need more time for this section? We are 3 D, E – 1, 2, 3, getting ready to move into section F. We're going from page 15 to 16.

If there are no other comments for that section, we'll move to F. And if somebody has something, we'll move back real quick. Members need more time for Section F? Hearing none, moving on to G, H 1, 2, 3.

Mr. Scherer: On G, on the Reporting, we're going to get that language in there about the one year that we talked about?

Mr. Teitler: The Selection Committee shall meet once a year to receive a report.

Mr. Scherer: And to review the performance of the Inspector General.

The Chair: At the request of a majority of the Selection/Oversight Committee. Ms. Coward.

Ms. Coward: Mr. Chair, if I may go to the last sentence in Section F, I didn't know we were moving on to J. I thought we were on page 3. Just go back up to that last sentence in F; I have some concerns, where it says the requirements of this subsection shall not apply to the Inspector General in conjunction with others, determines as supplying the person with such (inaudible) will jeopardize the impending criminal investigation.

I can envision a scenario where the County Commission is being investigated that would not automatically implicate the possibility of criminal investigation. Fraud, any of those things could trigger a criminal investigation, so if the person – how can they ever get the opportunity to respond or rebut a complaint if the mere trigger of a criminal investigation means they are no longer entitled to that right?

The Chair: The way I read it was if an ethics complaint, that the County Commissioner would have an opportunity to respond. If it was then determined that it was no longer an ethics violation but there's a criminal component to it, then obviously the Inspector General is not going to be required to expose his case to the Commissioner that is being investigated, like any other criminal investigation. That's the way I read it. That's my opinion. Mr. Teitler, you're probably best to respond to that.

Mr. Teitler: That's pretty much it – that was modeled after some existing –

The Chair: Do we need to clarify the language to delineate that? That's the way I read it, Ms. Coward. I don't know if I'm right or wrong. Anybody have any input on the question on the table?

Mr. Wolfe: That's how I read it too.

The Chair: None being heard, we'll continue moving forth with I believe it is H, 1, 2, and 3.

Mr. Wolfe: Does – I'm not versed on County contracts, does this give the Commission wiggle room and broad discretion where funding comes from to offset this with that contract fee?

The Chair: Mr. Teitler.

Mr. Teitler: Whether there's discretion?

Mr. Wolfe: Yeah. I'm not familiar with contract fees and what the budgets are and everything but does that give the Commission enough discretion and leeway with that fee to fund everything and --

Mr. Teitler: I think it gives them discretion to help defray parts of it.

Mr. Wolfe: Okay. Is it adequate?

The Chair: Mr. Scherer.

Mr. Scherer: Isn't this set up so that it's their responsibility to fund this, number one. Number two, that they can charge a quarter of a percent on all contracts to help defer the costs, or defray the costs. And if the costs are greater, they have to take it out of General Revenue.

The Chair: The way this reads to me, it's more permissible. In other words, the Inspector General proposes it, it doesn't say that they must fund it, but they must approve it. It does give a funding mechanism and obviously there is some debate whether that funding mechanism and going to fully cover the cost associated with the Inspector General Office.

Mr. Scherer: It says under subsection H – 1, the Charter government shall be responsible for funding, period. And it shall provide sufficient support and then it goes on to say – and then it talks about that quarter of a point on the contracts.

The Chair: Does that not conflict with 3, then, Mr. Scherer? A budget request including a budget – it's not a request at that point, he's submitting the budget.

This isn't going to be a Constitutional Officer. Ms. Cepero just clarified that Constitutional Officers request, but they don't necessarily get what they request. Here we're wanting to make sure the request is funded so the process can happen, and if the County Commission has the authority – maybe there's some limits. I understand we don't want the IG to come through with some crazy budget that's unrealistic but if he's not funded, he can't do his job.

Mr. Scherer: My understanding on all of these Constitutional Officers is that if there is a stalemate or impasse, the Constitutional Officer can challenge the lack of appropriation and I think this could be done the same way.

The Chair: I guess we would have to say that this is not a Constitutional Officer.

Mr. Scherer: But the Inspector General has to deliver a budget and the County has to approve it and get some help from those contracts and I know their approval cannot be unreasonably held. Maybe you want to say something like that so that if there's an impasse and the County decides to starve the Inspector General for some political reason -- that this Commission wouldn't do, but 20 years from now -- the Inspector General has a right to go to court to challenge the abuse of discretion. So we can maybe put some kind of language in there. I know this Commission wouldn't do that, but 20 years from now somebody might.

The Chair: I just read that it's pretty definitive in the beginning but you pointed out that it's kind of a request and the County Commission will then decide whether to fill that request. I'm talking about 3. Mr. Wolfe.

Mr. Wolfe: Well, wouldn't – under any County ordinance or anything like that there was a dispute upon enactment, the Court would be the – you would be going to court as a last resort anyway.

Mr. Scherer: That's why I put in there that if unreasonably withheld or something like that. Some language you could put in there that the County – you deliver a budget, there should be a hearing on it, and the County is going to approve the budget and if approved by the County Commission, shall constitute amendments to the County budget.

The County approval – approval of the IG budget by the County Commission should not – some reasonable basis in there. Some language in there so that if there would be an abuse of discretion standards, it can be challenged. That's what we're worried about. Again, not this Commission but some future Commission.

The Chair: Any other input?

Mr. Scherer: Rob, do you follow what I'm saying there?

Mr. Teitler: Place that at the very end of the paragraph?

Mr. Scherer: Right, right.

The Chair: Moving on to I.

Mr. Wolfe. Excuse me, Mr. Chair. We have language in line 6 on page 18, that says County contract as well as fee on lobbyist registrations and I would like to insert and/or lobbyist penalties or sanctions. The reason I'm saying that is the County Board might want to review their current schedule of lobbyist sanctions because a couple of the examples that were given to this Commission were pretty nominal fees, or they were penalties imposed on violations of Cone of Silence and stuff and they were really ridiculous. They were $500 fines and I would put that line in there, the County Commission, I would assume, might want to revisit that and increase some of its penalties in light of adoption of this Ordinance.

Mr. Fink: Do you want to include that.

Mr. Wolfe: I don't know if we can.

Mr. Scherer: Seems to me, if they have to fund this, they have to fund it. The fine goes in their pocket on one side or the other, Bob.

Mr. Wolfe: I'm just saying that the companies that were fined for not filing their registration fees were ridiculous amounts because I would consider that chump change in terms of doing business.

Mr. Scherer: I don't think there's anything in here from prohibiting the County from doing that. They have to pay for it anyway. They're paying for all of it.

Mr. Wolfe: Right. Just a comment.

The Chair: Nothing here prohibits them from funding it from any other source, right? So we could really name whatever, it's still going to get funded however they want. I think it's still a good recommendation.

Any other thoughts or comments?

Mr. Teitler: Is that something that's being added or not?

The Chair: Was it consensus that we need to add that or is it covered? I think we're okay, Mr. Wolfe, if you are.

Mr Wolfe: Just a comment.

The Chair: Thank you. "I." Under "I" I need some clarification. Starting on line 2, "…removal process shall be initiated by a duly noticed public hearing of the Selection Committee which by affirmative vote of the majority of the

members…" Is that the majority of the members present or are we saying there has to be three of the five there?

Mr. Teitler: I think this reads it would be a majority of all members.

The Chair: Should it clarify that so you don't end up with two members being there and someone call for the removal of the Inspector General.

Mr. Scherer: Wouldn't that be their own rules? I mean they are going to adopt their own rules of operating.

The Chair: Then why is this in here? And if that's the case, I would want to provide some clarification. We have five. It should be the majority of the five. Why put us in the position where through lack of a quorum, they can still remove the Inspector General with two people there?

Ms. Cepero: Point of clarification. If you read the rest of that paragraph, that's only referring to whether or not they have that hearing so to speak. The last sentence says, "May only be removed by affirmative vote of all the members."

Mr. Fink: Well, that's even worse. Four voted to remove him and one didn't, he wouldn't be removed?

Mr. Teitler: So add all to line 4?

The Chair: Well, are we looking for a supermajority to remove him?

Mr. Fink: No. But if you read the last sentence, it says that unless there is a unanimous vote of all five, he can't be removed, which means if there is one dissenter, he sits. That needs to be fixed.

Mr. Scherer: That needs to be changed. I think we need to wordsmith this a little bit, Rob. This whole section. That removal shall be initiated by affirmative vote of the majority of the members - I mean, I think what we want is that we want all of them to show up to remove and it takes three of all members –

The Chair: I'm okay with a simple majority. I don't need a supermajority, but of all members, period. Not all members present. So three out of the five. If we need to define what a majority is, let's put in there three of the five, or a simple majority.

Commissioner Shechter: Well a majority of five is three.

The Chair: Well, you missed the debate whether they had to be present or not present. If you read that last sentence it says all.

Mr. Scherer: I think on removal, there needs to be a full complement of the Board there of the Selection/Oversight Committee. And so we ought to say that a quorum for purposes of removal is all five so there is no boycott.

The Chair: I gotcha. You got the language, Mr. Teitler? We want to make sure all of them are there and a majority of them vote to remove.

Mr. Meyers: Mr. Chair, just following up, you then want to express that all five would be required? A quorum is five, at the time of the Selection?

Mr. Scherer: I think it ought to be both at the time of selection and at the time of termination. I really can't perceive any situation that we wouldn't want them all there anyway, since they only have to meet once a year.

Mr. Meyers: Well, they could.

Mr. Scherer: Well, they could, yeah.

Mr. Meyers: So you want five, a quorum is five at the time of selection or termination?

The Chair: A quorum is five for those two issues but they could have a quorum other than that.

Mr. Scherer: If they meet annually to review, they could have less. They could have three. Probably ought to be a quorum paragraph there, Rob, that says five for selection and termination and three for all other business for the Selection/Oversight.

Mr. Teitler: Under Selection paragraph, number 2, page 14? Paragraph number 5.

Mr. Scherer: Yep. Could go there.

The Chair: Any other comments under "I" or up to "I"? Moving into Section 2, Misdemeanors. Mr. Teitler? You want to discuss number 2, is that what you're saying?

Mr. Teitler: Yes. I consulted with the Attorney General's Office yesterday and if you'll recall this paragraph was really put in there originally because it was a forum of the bill that was submitted by Representative Porth. That bill – the bill he submitted from what I found out, was already withdrawn in December. I believe there's a replacement bill out there.

With that being said, without any actual statutory provision out there making any of these ethics provisions on Chapter 112 criminal in nature or a misdemeanor, we cannot by Ordinance, make them criminal. So this paragraph probably should be removed and – well, it should be removed – under Sanctions, we would then just go ahead and be consistent with the three statutes that deal with sanctions and delineate the fines and whatever you want. But in terms of creating a misdemeanor, we can't do that.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: Only the Legislature can do that?

Mr. Teitler: Right. The Attorney General has already opined that the County cannot do that by Ordinance if it doesn't already exist by statute.

The Chair: Any other comments? We are removing 2, Misdemeanor.

Mr. Teitler: The paragraph dealing with sanctions will be the new paragraph 2. Would actually start out consistent with Florida statutes -- well we could include 112.313 because that's where any legislative provision that comes out of the next section would include any criminal aspects to those code provisions, but also we're going to include 112.317 and 125.69. But as of right now there is no statute making any of those provisions criminal. But there could be in the future.

Mr. Scherer: I guess we have to take incarceration out also?

Mr. Wolfe: No, because that's tied to existing statute, I believe.

Mr. Teitler: Under 125.69, it's allowable.

Mr. Wolfe: There's already a statute, Bill.

The Chair: Before we move, let's recognize that the new number 2 will be Sanctions and we are opening the floor to 2A, 1, 2, B 1 and C 1, all the way up to Severability. Ms. Rorapaugh.

Ms. Rorapaugh: Under fines, I don't think we should say not to exceed $5,000 per occurrence but I do think we should have a minimum per occurrence, not a maximum per occurrence.

The Chair: Mr. Fink?

Mr. Fink: Besides there being a minimum, I think we should talk about – I am thinking about the instances where there have been officials who have

benefited financially from transgressions for lack of a better word, and were slapped with a fine of $250 but profited to the tune of $30,000. Where's the justice? And I'm thinking I would like to see something that says plus restitution of the ill-gotten gains. Because why should someone violate the code, be fined a minimum of $2,500 but keep $30,000 that they received in a golf bag on the golf course? Or however how we want to look at it because I have a problem with that. Because I'll go take a $2,500 fine all day long and make $30,000. Hello?

The Chair: Well, it doesn't eliminate the criminal prosecution portion of it, does it?

Mr. Fink: I understand that, but we're talking about civil here aren't we?

The Chair: We're talking about sanctions in general. Ms. Coward.

Mr. Fink: That's the point I'm getting at.

Ms. Coward: I really don't have a strong feeling as it relates to the maximum, one way or the other. My concern would be having a minimal fine then we don't know what the allegation is. If we have a minimum that applies across the whole Board, unless it's something small, I would be opposed to it, because I think the fine should be consistent with the level of the offense and if we have a minimum it might be too high for this offense and not enough for another, so I'm reluctant to have a minimum without any guidance as to what that would be, depending on the offense.

The Chair: Mr. Scherer.

Mr. Scherer: This seems to be one size fits all. And I don't think we mean for it to be one size fits all. There are smaller transgressions here that don't warrant the death penalty and then there are some transgressions here that warrant the death penalty in terms of removal from office, which I think we can do. We can remove them from office. We can go anywhere from fining them a dollar and removing them from office. But I think we need to have more than is here to get guidelines on sanctions.

Mr. Teitler: Chapter 112, the Ethics Commission can remove them from office. The State can. We can't do that.

Mr. Scherer: Is that right? Why not?

Mr. Fink: Why can't a second offense be removal from office?

The Chair: Let him respond please.

Mr. Teitler: It's not provided by statute.

Mr. Scherer: Well, if that's the minimum, we can over what's in the Ethics Code, can't we, for the County. I know we can. We discussed that. So we can be more strict than the state, right?

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I'm not an attorney, but my understanding is that we're a Charter County so we dictate our own governmental rules to an extent so we should be able to dictate what causes removal from office.

Mr. Teitler: Right, but these are Constitutional Officers –

Ms. Rorapaugh: No, County Commissioners are not Constitutional Officers, they're Charter Officers.

Mr. Scherer: I believe that's right. They're not Constitutional Officers, are they?

Mr. Meyers: Well, there's a debate going on right now with term limit issues, for example. I think they're County Officers. I don't believe they're Charter Officers. I don't believe they're technically Constitutional Officers. I think the next section of the Constitution has something called County Officers.

I didn't research the issue so I don't know if you can remove them or not. I would tend to think you can't. But there is a severability provision in here as well. So if you feel certain rights or sanctions that are unenforceable, it's going to end up being not applied by court and that can be severed. Again, I don't think you have that right but I haven't researched it so I don't know the answer.

The Chair: Are we talking about - we're talking about – I don't know. It just seems to me that if the violation warrants removal of office, there's probably going to be some criminal prosecution. Maybe not. Mr. Wolfe.

Mr. Wolfe: I think we need to step back a little bit and take one step at a time. We have the issue of funds first. We need to hash that out and discuss that first and every other issue we want might to include enforcement. Let's do baby steps. We're jumping to removal from office to sanctions. Let's do fines first and then –

Mr. Scherer: Don't we need to have more in here in terms of the range and how the fines are going to be administered or the penalties or going to be administered by the hearing officers who are going to hear this and fine violations – that's where the fines are going to be assessed. And/or the Ethics – the State Ethics – would they be using ours?

Mr. Teitler: No, they have their own.

Mr. Scherer: I understand they have their own, but so a violation of ours wouldn't – if more strict than state law, would be a matter before our hearing officer?

Mr. Teitler: Right, a violation of our Code. The Broward County Ethics Code.

The Chair: Mr. Fink.

Mr. Fink: In reference of Alfreda's comment about each infraction may require a different penalty, we're talking about a Code of Ethics here. If you are violating the code, whether you violated the Code by not reporting gifts, or whether you violated the Code by taking cash which would probably put it in a criminal – okay, there is a difference – but at what point do you say you should have known better.

We've been sitting here for a year trying to tell these people you do the right thing but obviously they don't do the right thing and that's why we're here. Or the perception is among the voters that they're not doing the right thing. So I don't think there's a range that says, your first offense for not reporting a gift of over $50 is a $50 fine. You need to make it painful.

Because unless you administer some pain, they're not going to get the message and so I understand that you can have degrees, but I think there needs to be a minimum that is meaningful. You can go up from that minimum if you want to and I don't know that $5,000 has to be a maximum, but I think there has to be a minimum that makes them understand that that $50 transgression is going to cost you $500, or it's going to cost you $1,000. So you know what, you better be careful. But I really think that you need a minimum that sets the standard that says hey, you violated the Code. It doesn't matter if you violated a little bit, or you violated a lot, you violated the Code.

The Chair: I can't – one second, Mr. Scherer. I am going to comment and then Ms. Coward and then we'll go to you.

I can't subscribe to that for several reasons. The Inspector General is going to conduct an investigation. He'll determine whether that was in intentional violation or whether it was an oversight. Okay, maybe I'm wrong but let me finish. But regardless of that, if I was to subscribe to that theory, Mr. Fink, when you leave here, you get stopped for speeding on the way home. You were five miles an hour over. Under your philosophy, that trooper should be able to say, you know what, I want you to learn a lesson. I want this to hurt so I'm going to double this fine because you violated the law.

You were speeding, whether it was five, or fifteen, or fifty over, you violated the law and that's what you're asking us to support, what I hear anyway, asking us to support here. You violated the law so I want to make it hurt to the maximum level.

Well, there's different levels of violation and I think we need to decipher what that was and apply an appropriate fine. No matter what we do in society, you get penalized based on the crime. You get a different sentence for murder than you do for battery and I just think that you know – I want to proceed with caution.

Mr. Fink: I don't think that's what I said. What I said was there needs to be a minimum level. If you want to go up from there and have a maximum level, that's fine. But I don't think that somebody who -- and to use your analogy in speeding laws -- you do get a greater fine depending upon on the amount of time but there's a minimum level of fine.

The Chair: I thought I heard you say if you violate the Code, you violate the Code.

Mr. Fink: I think Alfreda was objecting to there being a minimum and Robin started out by saying that we need to have a minimum and I'm just supporting that and say the minimum should not be a token amount. It needs to be something that is meaningful.

The Chair: Ms. Coward.

Ms. Coward: That is what I'm saying. I'm opposed to a minimum at all unless it is a token amount because it may be something that is completely unintentional and it's a one-time offense but it is in fact, an offense.

If we have a minimum that is $5,000 for something that the Inspector or our tribunal found was unintentional and minimal consequence, then they shouldn't be required to have a certain amount as a minimum. We're putting in here that we're going to have a tribunal. Why don't we give the tribunal the power to see what fine meets the crime or the allegations. Why as Commissioners, are we going to sit around here and dictate, I think this is what should happen.

Empower the tribunal to receive the information that they got form the report from the Inspector General with whatever evidence they've taken and figure out what is appropriate. That's how our justice typically works and I think we ought to continue that process.

The Chair: Mr. Scherer.

Mr. Scherer: That was my point. As I understand how this works, find some probable violation of the Ethics Code and give it to a hearing officer – like a Traffic Magistrate to hear the matter and make a determination and issue the appropriate sanction.

That's how the process is going to work but we need to put some meat on the bones here in terms of what the range should be and I think we should refer to the Palm Beach and Miami Code with respect to the range – we got to give the hearing officer some guidelines in terms of how to enforce this.

The Chair: Mr. Teitler.

Mr. Teitler: I don't know – the IG provision doesn't provide a range in either one.

Mr. Scherer: What do they have in respect to their hearing officer? They must have some in their Code with respect to sanctions and fines?

Mr. Teitler: It's handed off to the entity that's going to determine what the ultimate sanction is going to be but they don't go – in the IG ordinances, they don't go into the actual fines.

The Chair: If we can give him a minute to do some research.

Mr. Scherer: This isn't the IG Ordinance. This is at the end of our Ethics Code –

Mr. Teitler: You're saying what does Miami-Dade do?

Mr. Scherer: Yeah, what do they do, how they do their sanctions and fines for violation of Code.

Mr. Teitler: In their IG Code?

Mr. Scherer: In their Ethics Code.

Mr. Teitler: In their Ethics Code?

Mr. Scherer: Yeah, right.

The Chair: If you could take a minute to research that, Mr. Teitler.

Ms. Rorapaugh.

Ms. Rorapaugh: I understand people not wanting to tie the hands of hearing officers for – at least leave a backdoor for the IG or the hearing officer to

say no fine is required for this, you know, you took five paperclips out in your purse by mistake. I understand that. But if we do not have a minimum set, which we say can always say can be overridden by the hearing officer, there will be office holders -- none in the office right now -- that it's worth the gambit because it's not going to hurt. And whether it's a $1,000 minimum and if we allow the hearing officer to waive the fines and sanctions, that will give the protection to the unknowing officer.

Some officer holders unfortunately are not going to hyper-vigilant to stay within the lines that we are clearly drawing unless it is going to cost them money to cross those lines.

The Chair: I'm okay with the suggestion that there is a minimum if the hearing officer of the tribunal has the right to waive that. I agree wholeheartedly with Ms. Coward in that there needs –

Mr. Scherer: I don't.

The Chair: That's okay, I do. I have the floor right now, Mr. Scherer. If you could just wait a second. Thank you. The intent again, is if it was a minor oversight and through the investigation it's determined there was no ill intent here, it was a mistake, it was a first offense, a $1,000 is going to be steep. But if they have the right to say, hey, because of the circumstances I'm okay with $500, or $250, it's still a violation. You made a mistake intentionally or unintentionally. There needs to be some of that provision in my opinion. I don't know how we do it. Mr. Scherer.

Mr. Scherer: If it's a mistake of five paperclips, it really wouldn't be a violation. That would be at the discretion of the IG. But after a probable cause finding by the IG that there was a violation of this Code, whether it's intentional, it would be a great fine, or inadvertent sloppy negligence, it would be less. And if it was minimal accident, it would be nothing.

But I don't know that we have enough of that in here. I am struggling with the sanctions/fines you know, on these – we just don't have enough here.

The Chair: I believe Mr. Teitler has a response to your question.

Mr. Teitler: In the new Palm Beach Code of Ethics, it's even less specific. Under their Section 8, Administration and Enforcement of Penalties, paragraph B, a finding by the Commission on Ethics and a violation of any part of this Ordinance shall subject the person to public reprimand, a fine of up to $500 or both. The Commission on Ethics may also order the person to pay restitution when the person or third party has received a pecuniary benefit as a result of the person's violation.

And then in paragraph D, "The Commission on Ethics may in its discretion refer violations of certain sections to the State Attorney. Pursuant to Florida Statute 125.69, a person who violates the sections of the Ordinance shall be subject to prosecution, a fine not exceeding $500 and imprisonment not to exceed 60 days." So it's more general.

The Chair: Mr. Wolfe.

Mr. Wolfe: It would be my recommendation to work more on this but I don't think we need to – first of all, the fining would be determined by the Inspector General ultimately. Well, a hearing officer subject to review by the Inspector General. I'm comfortable with the $5,000 fine ceiling. I also think we ought to incorporate some of that restitution language from Palm Beach and I think we ought to add another paragraph or two empowering the Inspector General to make criminal referrals to the State Attorney, FDLE, any other appropriate law enforcement.

The Chair: That's already in there.

Mr. Teitler: That's in there.

Mr. Scherer: I would like to see that language; some of that language, that Palm Beach had.

The Chair: Before we go there, Mr. Fink.

Mr. Fink: I think you brought up a good point and I think we have to think about whether or not we want a table for multiple offenses by the same individual because you're talking about a first offense. I think Mr. Scherer's point is well taken. The IG is not going to prosecute for five stolen paperclips. He's going to bring forward something that has some meat on it and therefore, it's never going to get to the level of the Administrator tribunal or the hearing tribunal.

So at some point in time he's made a decision that this needs to go forward. And at that point in time, when he reaches that level, there needs to be a minimum that extracts some pain.

The other point that he brought up, if this is a first offense, obviously the punishment need not be the death sentence as Mr. Scherer so kindly brought forward. However, if it's a second or third offense of a similar nature, then I think we need to address it in here because I think its part and parcel of what Bill is saying, that there is not enough meat in here as to what is it that we are concerned about.

And we are certainly concerned about repetitive offenses by the same individual. We're certainly concerned about offenses that cause the IG to go

forward to the hearing tribunal and I don't think a fine, or having no minimum allows us to make it perfectly tailored to that individual. The first time it's an oversight, the IG isn't going to probably prosecute. But if it happens a second time and now he decides to bring it forward because he did it again, there needs to be a minimum fine that makes it perfectly clear for this individual. And repetitive offenses per our three strikes and you're out law, means that something has to happen of consequence.

The Chair: We have Commissioner Shechter. Mr. Scherer and Ms. Coward, I need a point of clarification before we go on. I keep hearing hearing officer and tribunal. Tribunal in my opinion is more than one. And hearing officer is one. Can somebody clarify that for me?

Mr. Fink: We have tribunal –

The Chair: Right, but we keep using the term hearing officer.

Mr. Teitler: Well, tribunal to hearing officer, but I think we want the Selection Committee to select a tribunal. Hearing officers. The Selection Committee selects the tribunal of hearing officers.

Mr. Scherer: Right. Whether there is more than one judge panel or a three judge panel – you don't want three hearing officers on something that's minor, relatively minor. You might – I mean, I don't know why you would want to have more than one anyway.

The Chair: Well, I hear members saying that tribunal panel and others saying hearing officer.

Mr. Fink: Tri by inference is three.

Mr. Scherer: Tri is three but a tribunal can be one official body.

The Chair: Now you see why I ask for clarification. Let's define it. Do we want it to be one or multiple?

Commissioner Shechter: One is sufficient.

The Chair: I'm okay with one.

Mr. Wolfe: I'm okay with one.

Mr. Scherer: Rob, does tribunal mean three?

Mr. Teitler: I think tribunal means three. And I think probably in some of these situations, it may be more appropriate .to have a three-person panel rather than have one individual make the determination.

Commissioner Shechter: Instead of the word tribunal, let's change the word. Making it a hearing officer instead of a tribunal.

The Chair: Ms. Rorapaugh. Point of clarification then we'll get back on queue.

Ms. Rorapaugh: Or say one or more hearing officers as determined by the Inspector General. From a pool selected by the Oversight Committee.

The Chair: I would like the Inspector General to do his job. I don't know that he has to go to the Selection Committee to determine – or are they going to –

Mr. Scherer: Well, if he or she finds probably cause, there has to be enforcement –

The Chair: I understand that, but should he be appointed that tribunal?

Ms. Rorapaugh: No, no, no, the nominating committee does that.

The Chair: There's a recommendation on the floor –

Mr. Scherer: Every charged official has the right to contest –

The Chair: Gotcha. There's a motion on the floor, well, there's a recommendation on the floor, I apologize, that we eliminate the word tribunal – go ahead Mr. Scherer.

Mr. Scherer: We're upside down here a little bit. Because we also have – I have a headache. If the hearing officer finds – I mean if the IG finds probably cause in an investigation and the official says, "Gosh, I made a mistake, I did have a voting conflict. I didn't realize it." We don't need to go to a hearing and there ought to be something so the IG can go to resolution right there on agreement. You only go to a hearing if there's a matter to be heard. We don't have any of that here.

The Chair: And we're good. We'll go to the process. We need to define what we're talking about in terms of tribunal and hearing officer and I think that's what we're trying to get clear right now. Is it agreement of the majority – and Mr. Meyers, do you need to speak to this right now?

Mr. Meyers: I was just going to say, tribunal was probably used because it wasn't clear what you all wanted. A single hearing officer or if you want a multi-person, tribunal – that's your call.

The Chair: So is there a majority in agreement that we're going to eliminate the term tribunal and we're going to say a panel to be determined from one to three, of the Selection/Oversight Committee. Is that accurate now? That we know who we are talking about when we say hearing officer or hearing panel. Mr. Meyers.

Mr. Meyers: It's your call, but it seems you are going in undue complexity. You can select right now one hearing officer and that's who's – what Mr. Scherer says is correct and the appellate says a lower tribunal is a single judge. So the terminology is not important.

But if you want to choose one hearing officer, why not have that uniform? One hearing officer. If you want to have the opportunity in cases that are potentially more egregious, to have a multi-hearing panel, then you ought to define the standard one that will result. I just don't understand if you're saying one or three without standards, I don't understand how that will work.

Mr. Wolfe: One.

The Chair: Recommendation of this Commission, back to what we said, I'm good with one. So we're good? Any opposition to that recommendation? Okay, now that we know who the tribunal is – one -- we're going to go back to queue. And I believe it was Commissioner Shechter. Mr. Scherer, and then Ms. Coward.

Commissioner Shechter: I have no objection to monitoring the fines for multiple offenses but I'm opposed to a minimum because I would prefer to allow the hearing officer to hear the testimony, hear the evidence and let him make the decision on what the fine should be. If you want to give him guidelines, you can do that. But to impose an absolute minimum on everything or anything, I'm absolutely opposed to that.

The Chair: Mr. Scherer.

Mr. Scherer: Is there –does the County have some kind of administrative adjudication act or code, administrative procedure in contesting decisions?

Mr. Meyers: Yes. There may be multiple provisions.

Mr. Scherer: I mean, we're setting up an administrative adjudication where the IG fines probable cause and its contested by the official, then we go to

the hearing. If there is no hearing, I guess the IG can work out what the penalty is.

Mr. Meyers: I'm a little bit concerned about that. If there's no dispute, why not turn it into an informal administrative hearing where there's no dispute of fact and still leave it in the discretion of an appointed hearing officer to determine the penalty and I agree with you, there should be some standards stated because you get into process issues.

Whether you want a minimum in there or not, I mean, you can have a minimum in there if you feel it's necessary, but still give the hearing officer the power for example, if the hearing officer makes an affirmative finding that it was not willful, the hearing officer could waive it. But again, it's one of those situations that was suggested before, they may be very hesitant to make that finding unless it's very clear.

You have a range of let's say $500 to $5,000 or $250 to $5,000 – you can say that – I would provide some standards based on the gravity of the offense, whether it was determined it was an intentional offense and whether it was a repeat offense.

Mr. Scherer: My problem with this is exactly that. We've been laboring here for a year and if I was appointed a hearing officer with these guidelines here, I would have a headache because you wouldn't know what to do. So we're going to have to establish some standards for implementation of the fines and or the penalty phase because we don't have it here. I mean we have honest services and we have reckless indifference language but what if it was just indifferent but not reckless.

Commissioner Shechter: I think the language we just heard was pretty good language.

Mr. Scherer: I do too. And I think we've got that. I think we must have some of that language in administrative adjudication?

Mr. Meyers: Yeah, I know that for certain offenses, they deem certain things to be material and others things not material and there is a penalty matrix used. But again, that is complicated and somewhat constrained to the authority as well. If there are certain things you are looking for, for example the thing that just came to the top of my mind was the seriousness or the gravity of the event, and whether it's a repeated offense or whether it's intentional. There may be other factors that you would think would gravitate towards a more serious finding.

Mr. Scherer: We're laboring here and I think we need some research on this and some suggestions. Because we're not able to move this on the fly, I don't think. I think this is a very important part of this and we ought to try to get

some language down on paper so that we can see what it looks like before we make a decision as to how this is going to function. That's my view.

The Chair: Ms. Coward.

Ms. Coward: I suggest that we use some of the language that was just suggested about the facts to be considered in determining the sanction of the offense – the gravity. The greater the offense, the greater the penalty without restricting our hearing officer. I want this hearing officer to have the power.

Why do we think as people sitting around this table we know better what the sanctions should be when we know nothing about the facts then the person who would be sitting there and receiving the report.

So we need to give our hearing officer some discretion and some power but we can give some guidelines to be considered, or if we want to put some maximum, that's fine. I'm not insisting on the maximum, but we need to give them the power but not some matrix where the first violation must equal this and the second violation must equal this. Because there are repeat offenses; that means the more you get, the more the penalty is. That is what that means without specifically saying what that has to be.

The Chair: Mr. Teitler.

Mr. Teitler: I can put an introductory sentence or short paragraph before A. starts, saying in the determination of the hearing officer based on the certain criteria, that he has some discretion.

The Chair: Mr. Fink.

Mr. Fink: Carl, if I understood you correctly, you're opposed to a minimum?

Commissioner Shechter: Yes.

Mr. Fink: Are you opposed to a minimum if the hearing officer had the discretion to waive that minimum?

Commissioner Shechter: I'm opposed to being able to waive anything. If it's punishable by a fine, he should fine them. But it should be his discretion as what that fine should be. If you want to establish a range of fines, like somebody said, from $250 to $5,000, okay. And if you find there's been an offense that's punishable, then you want to keep it nominal -- $250. But to impose a minimum mandatory fine on everything, a violation has to be punished by a minimum $250 – it just doesn't – there are offenses that are unintentional and should not be fined at all.

Mr. Fink: Then my question would be, assuming the hearing officer or the IG had some discretion in whether or not to bring forward probably cause, it would not be in front of the hearing officer in the first place. That would be number one. Let me finish my thought.

The other thing is, pursuant to what you're saying, and I agree, we don't have enough meat yet. The four words that I heard and I think Rob, what you're doing – the seriousness, the repetitiveness, the intentional-ness, and restitution. Somewhere we got to cover those four things in determining a table of where we go with this. Those are four things we have to address and not leave it up to the discretion of the hearing officer.

We have to somehow indicate and codify if it was intentional or unintentional, how serious it was, whether it was a repetitive transgression, and whether or not restitution is required.

Commissioner Shechter: But doesn't that depend on the facts, Ken. How can we establish guidelines on intent?

Mr. Fink: Well, we can do a general; that these are the four factors that need to be considered. We can do a general heading like Rob is suggesting – saying that the four elements that need to be considered are those four things.

Commissioner Shechter: We can do that. And then the discretion of the hearing officer; he should determine if a fine should be levied or not.

Mr. Fink: I would still offer a range though because I still think it's not going to get there.

The Chair: Mr. Scherer and then Mr. Wolfe.

Mr. Scherer: I would ask each of you to think of situations that have gone on in the past that we've read about or heard about where there were ethical violations that this Commission or some other public entity in Broward – I'm not even going to say which ones they are – but think about them in your mind and then think I'm a hearing officer and what would be the appropriate penalty.

And without knowing – and I've been doing that with respect to these violations that I'm thinking about and without any guidelines in the Ethics Code, you wouldn't know whether to really slam them or what to do with it. Even situations that the Ethics Commission have made some findings -- if I'm a hearing officer, what am I going to do with that situation?

And I would want something in the Code that would give me some guidance on how to evaluate that. And just think about this because we have all

heard about those situations that we've been reading about the last three years. Some of them were repeat, time and time again. And some of them were first time but big time and then voting conflicts, we haven't even gotten to that. And I don't – it seems to me I would need more -- in terms of the guidelines in the Code, I would be looking at the Code, I would be reading the Code to try to tell me what to do.

The Chair: Mr. Wolfe.

Mr. Wolfe: I disagree on the amounts of the fines. I think the hearing officer can determine that. In my mind I'm thinking about – you know, there's things that are nominal that are Code violations. A former Fort Lauderdale City Commissioner use of postage for fund raising and office supplies. The real crime was that she fibbed about it. But there was reimbursement there. There was some expenses reimbursed and things like that.

And I think things like that would be applicable to the Code where we don't have to define those because I think the hearing officer would determine what's applicable. It might be a slap on the wrist to an employee or a staff member for abusing their positions, but it might not be a pillar offense.

And again, I do think some of the suggestions of counsel should be added on there because we don't need to love this to death here.

The Chair: Ms. Coward.

Ms. Coward: I was just going to suggest to answer Mr. Scherer's concern as to what should be the thing. Right now, all hearing officers have to make decisions. And if the person can't review the facts and make a decision, then maybe they shouldn't apply to be a hearing officer.

If the Inspector General – I think they should have the power to make recommendations or sanctions. That would provide some guidance. The Inspector General can say these are the findings, this is the probable cause, recommend some sanctions. The County Commissioner, their representative, their attorney can come in and say we think some other sanctions are appropriate and let the hearing officer decide like we do in criminal; State Attorney makes a recommendation, the Defense Attorney makes a recommendation and the judge simply decides.

Mr. Scherer: Each crime has a range of penalties. I mean Scott Rothstein has a hundred years he's looking at. Twenty years for each, so there's a range of penalties that are specified. That's due process and I'm looking at this thing and I'm saying, okay, Commissioner knowingly or recklessly shall be assessed a fine not to exceed $5,000 per occurrence and that's it.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I understand the hearing officer needs to have their hands free. But whether it's a parking ticket. I know parking ticket in the City of Hollywood is $15 and a parking ticket in Fort Lauderdale is $23. There is a minimum I will pay if I overstay my time at the meter. If you even mistakenly write a check that it's over the amount of what is in your checking account, the bank is going to charge you a set amount of money and if you are prosecuted, there is a set fine. There is a minimum to all these things.

There's a minimum of transgressions whether I meant to or not. I didn't mean to overstay that parking meter and get that parking ticket. I didn't want to inadvertently buy chewing gum and strip out my bank account by 3 cents and get a $78 fine. Minimums are throughout our lives in fines, whether we mistakenly get it or not. Ignorance is not a defense. I believe I've heard that in criminal movies. I'm not sure it's something in the criminal code that says that but in the IRS, ignorance is not a defense.

The Chair: I'm okay with identifying a minimum and a maximum but I think it has to be associated with something and that's where the guidelines need to come in. What is the minimum applied to? What is the maximum applied to? And I think that's what I'm hearing. A majority. Ms. Coward?

Ms. Coward: I was going to say point of information. How are we going to proceed? Are we going to make a decision first and decide if we want minimums and maximums and then come back and say what are they going to be? How are we going to – are we going to postpone this? We keep talking about it.

The Chair: I think at this point, we have a majority consensus that says we need to identify minimum and I also hear a majority consensus to define some parameters. What constitutes a minimum and what constitute a maximum.

I am going to do two things. We are a minute away from public comment. We have one public speaker who is signed up to speak and I don't know if there's anybody else. We are going to take that public comment and then I would ask while we are doing that, if you would all consider if we could extend this meeting to noon today, an additional 30 minutes, if not craft out some language, make some significant specific recommendations to the County Attorney so that we have some legitimate meat to put on the bone before we come back.

I'm not going to allow a deadline to drive our process but I'm going to do my best to stay on that and if we can do that and get some meaningful – Mr. Teitler, another thing I'll do is ask you to get us a draft by the end of the day, if possible. And I know that's a push but we're giving you a lot of language, but

we'll have tomorrow to review that thoroughly before we come back on Friday morning. So that's not a whole lot of time.

Mr. Scherer: Is Friday our last day?

The Chair: It is, yes, sir. And again, I'm not going to allow a deadline to drive the process but I'm going to do my best to keep on that. So if we can get it this evening, use tomorrow to review it and come back with not let's debate this, but if you don't agree, have some specific language that you can put on the table that you've crafted that we can vet and take a majority vote on it. Ms. Coward.

Ms. Coward: I was just going to suggest in an effort to try and move forward on Friday with a final, as opposed to what we're doing now and just going around the room and everyone expressing their feelings. If we review it tomorrow, if we could have some guidelines that maybe Friday it needs to be specific motions, like I move to remove so and so, and add so and so. Otherwise, we'll be talking and talking and talking.

The Chair: I agree. And possibly get your recommendations back to the County Attorney prior to.

Mr. Wolfe: Let's do public comment and then decide what the minimums are and the maximums are.

The Chair: Time is 11:00 a.m. Ms. Greenbarg. Is there any other member of the public before – you're up, Ms. Greenbarg.

Ms. Greenbarg: Thank you, Mr. Chair. Good morning everybody. I'm Charlotte Greenbarg, President of the Broward Coalition. And you were doing so well up until you got to the Selection/Oversight issue.

I have to tell you that maybe what poisons this whole thing with the voters. I must let you know that. The people you are talking about as the Chair said, are elected officials. They get the contributions from the same people that the IG will be expected to investigate. It's very – you're inside the beltway is what I guess I'm trying to say. And there are millions of people outside the beltway from whom you could choose, who are outstanding people.

I think the Florida Department of Law Enforcement is an excellent idea. More of that would be something that the voters would look at without thinking that this is just another inside deal where we've got all these people who are elected and sometimes their campaigns are run by the same people who run the campaigns of the people that the IG is supposed to be investigating. That's how closed a circle this really is. I implore you – the rest of this is really, really good. It really is. The voters are just starving for real reform.

You have no idea how much the hunger is out there for real reform. We're just asking you to please take another look at this. There's nothing wrong with these individuals as individuals. I don't them personally and I'm sure they are very nice people and they're fine. The problem is that they are elected officials.

The problem is that the election process is what caused the problem in the first place. That's the problem. It's a very inside the beltway group of people who are doing the electing. Until we get a better pool of candidates who can feel that they can take on an incumbent, a humongously well-financed incumbent, and they are starting that in Miami-Dade. Katy Sorenson, who is not going to run again for the Dade County Commission is putting together a group that is going to train potential candidates to start stepping up from the folk from outside the beltway.

The Chair: Ms. Greenbarg, if I could ask you to conclude your remarks.

Ms. Greenbarg: So I am imploring you to just rethink this. Volunteers are good. Think outside the beltway. Thank you.

Mr. Fink: I have a question.

The Chair: Any questions for Ms. Greenbarg?

The Chair: Mr. Fink and Ms. Rorapaugh.

Mr. Fink: What did you think about the Dean of a Law School?

Ms. Greenbarg: I agree with you that it should not be limited to Broward County law schools.

Mr. Fink: But you think that is a position outside the beltway?

Ms. Greenbarg: Yeah.

Mr. Fink: So then my other question is if you have two people outside the beltway, can you offer us any ideas that, since you've been sitting there for three hours, that are outside the beltway?

Ms. Greenbarg: Yeah, a business person who doesn't do business with the government. That would be someone you really need on here. Even an auditor.

The Chair: We've got Ms Rorapaugh. And then Mr. Wolfe.

Ms. Rorapaugh: Yeah, and I think I asked you this same question at our last meeting. What specific entity do you think should be a part of this? And I

have concern about some of these people being elected also, but how do you select a business person? All the business organizations in Broward County are dues paying business organizations. And many of them are only asked organizations. So we're going to put a country club person on there? Or your organization, which pays dues, etc., etc., and there's institutionally very few above politics and institutions and we have to designate an institution. Not an individual to participate in this. I think that's the problem.

Ms. Greenbarg: I don't know what dues –

Ms. Rorapaugh: We're not saying so and so – Mike Satz – State Attorney is going to be on the Selection Committee. We're saying the State Attorney will be on the Selection Committee. We're doing an entity as the Selection Committee, not individuals. So where do you find the impartial entities?

Ms. Greenbarg: You find them – it doesn't have to be limited to Broward County. It probably shouldn't be. Go outside Broward County, outside the beltway.

The Chair: Mr. Wolfe.

Mr. Wolfe: We need to get back to our agenda.

The Chair: Do you have any questions for Ms. Greenbarg?

Mr. Wolfe: No. I appreciate you coming back here. But you can't say – you just can't say a – in an Ordinance you have to designate somebody. That's the difficulty with this job. With that, I would like to get back to –

The Chair: Any other questions for Ms. Greenbarg? Thank you for your time.

Is there any recommendation that we revisit the area of the Selection/Oversight Committee.

Mr. Wolfe: We are going to do that anyway.

The Chair: Any consideration at this time? We're going to go through everything.

Mr. Fink: You're not going to start making changes –

The Chair: It's possible. We've left that open. But that's the process we've outlined. Is there any, at this time for the Selection to reconsider where we're at with the Selection/Oversight Committee? None being heard, we're going to continue with our working draft.

Mr. Fink: I make a motion to extend to 12. Take a break.

The Chair: Motion on the floor to extend to 12. Is there a second?

Commissioner Shechter: Second.

The Chair: Second by Commissioner Shechter. All in favor signify by saying aye. Any opposed, same sign?

Mr. Scherer: Yes.

The Chair: I see you, Mr. Scherer. Okay. At this point we're going to recess for three minutes. Six of you be back on time. All right. Five minutes, I've been overruled.

(The Chair recessed the meeting at 11:06 a.m. and reconvened at 11:15 a.m.)

The Chair: Calling the meeting back to order. The floor is open. We're taking back up under Sanctions, Fines.

Mr. Wolfe: Mr. Chair?

The Chair: Mr. Wolfe?

Mr. Wolfe: To move this along, let's decide on some so Rob can get a working draft together. I would put out a minimum of $250 to maximum $5,000 per occurrence, in addition to the language already suggested by counsel out there with the – to rework the initial paragraph.

The Chair: Mr. Wolfe, can I ask – the County Attorney has worked on some draft. As we're there, can I have him read into the record and you can let us know if that's what you're trying to accomplish and whether we all agree or not.

Mr. Teitler: Here's some ideas that came up under the break. We can have a range of between $250 and $5,000 with the option that upon a finding by the hearing officer, that a violation was unintentional and de minimis, the hearing officer may determine not to impose any fine. We would add that the hearing officer may order appropriate restitution of any gain received by the Commissioner or disgorgement.

Mr. Fink: Excuse me, disgorgement?

Mr. Meyers: Give back.

Mr. Teitler: And that we would apply the standards to be applied by the hearing officer to determine the amount of the fine being three things; number 1, the gravity of the offense, number 2, the intent, and number 3, the repetitive nature of the offense. And leave it at that.

The Chair: There's our meat on that skeleton.

Mr. Wolfe: My follow up question. Since portions of our draft document also work for relatives and other folks, if there's a violation with a lobbyist or a spouse or domestic partner, the infraction is against the Commissioner, or is the sanction going to be against the relative?

Mr. Teitler: This would have to be against the Commissioner.

The Chair: Mr. Fink.

Mr. Fink: Pursuant to what Bob just said. If an immediate family member gains, and we're talking about disgorgement. I learned a new word today. Do we have the ability?

The Wolfe: The IG will be able to refer it to other people. It's an Ordinance violation.

Mr. Fink: I didn't finish my thought, but you understand where I'm going.

The Chair: Yeah. We can't go after a family member but the IG can refer that to the appropriate authorities to do so. Mr. Scherer.

Mr. Scherer: We can't go after the family member but the Commissioner can sure as heck be obligated to pay a $5,000 fine if he or she or his family member benefited –

Mr. Fink: Benefited to the tune of $30,000 –

Mr. Scherer: And disgorge that – they'll have to pay it back or not.

Mr. Fink: So do we need to codify that?

The Chair: Mr. Meyers, do you want to speak to that point?

Mr. Meyers: Well, I think saying disgorgement is probably broad enough to do that. I know that's a power that the State Ethics Commission certainly has when there's a special gain by a member's family of an elected official.

The only point I was going to make, Mr. Chair, was by adding intent as one of the factors that you look at in determining the amount of the penalty, you're fundamentally changing, and I wanted to make sure everyone was aware of that, the nature of what is now paragraph 2A1 on page 19.

The Chair: Would you read that new language?

Mr. Meyers: Yes, sir. Right now it says a County Commissioner who knowingly or with reckless indifference violates anything –

The Chair: Would you go up to that mic to make sure we get everything.

Mr. Teitler: That's right. On A1, we would remove the part of the sentence that says knowingly or with reckless indifference. We would just have a County Commissioner who violates any provision of this Code. And then we carry on with what I added.

The Chair: Mr. Fink.

Mr. Fink: I'm sorry, I don't know your name.

The Chair: Mr. Meyers.

Mr. Fink: Mr. Meyers. You just said would probably be covered and the operative word in that sentence is probably. I don't think we want to leave anything to chance.

Mr. Meyers: At this point, again, there is a severability provision. If it's a right that you want to have in here. If it's a power that you want the hearing officer to have, I would include it. And if it's something the hearing officer cannot have, they won't in essence, be able to exercise it.

Right now, the Ethics laws, and Rob's more of an expert on this than I, but the Ethics laws provide that if there is a special gain to a family member, then it is a violation and the Ethics Commission gets to fashion a remedy that is appropriate and that I think would take into effect the amount of the gain to the family member.

So I do believe it would be a permissible remedy, but frankly I'm not an expert on it, I don't know. So therefore, I would include it in there and if it turns out that it's invalid, it just won't be something that capable of being exercised.

The Chair: Members, rather than calling Mr. Meyers back and forth, unless there's any objection, if we can just ask him to stay here. He's going to be sitting in Mr. Teitler's seat on Friday.

And I just – if we want to have him testify before us or not, but keep calling him back and forth, I think, as we try to work through this language if we can just ask him to stay, unless there's any objection. He will be here at our final meeting as our counsel. Any objection to that? Mr. Meyers, would you please just stay there.

Mr. Meyers: Thank you. Ms. Coward.

Ms. Coward: Does the proposed language that Mr. Teitler suggested have what you are suggesting about the - what's that word?

Mr. Meyers: Disgorgement.

Mr. Teitler: Yeah, it's part of what I said, the hearing officer may also order appropriate restitution or any disgorgement of any gain received by the Commissioner.

Mr. Fink: Or an immediate family member.

The Chair: Here's what would help me, even if we have to take a minute. If we can read it in its entirety, the changes from 1 into the new language – I know it's not something we got in front of us to read, but if I hear it in one fluid paragraph it will help me to process it a little bit. If we have to take a few minutes to do that, Mr. Teitler, I'm okay with that. But again, this is going to be sent to us for us to review tomorrow independently before we come back on Friday.

Mr. Meyers: Mr. Chair. I'm concerned that if we do this on the fly, we're going to need to correct some points anyway so what I would ask, is that what Mr. Teitler read before, we would add to that language to capture what Mr. Fink is seeking which is that restitution or disgorgement shall also to apply to funds received by any member of the immediate family or anyone else covered by the state section. We'll add that and that way you'll have a chance to comment on it.

The Chair: And I'm good with that. I think, for me anyway, if I hear it in its entirety, I may come up with another thing like Mr. Fink did, well, what about this or what about that. I'm not trying to leave that for the record, but I'm hearing it in bits and pieces. If I can hear how it flows it may just help me. And I know it's going to change.

Mr. Meyers: I think better in the quiet, so I'm going out to work on that.

The Chair: Thank you. Let's continue our discussion. There's some other sections to this as well under Public Reprimand/Sensor and Incarceration so if we could give some thoughts on that and come back to that language. And the floor is open for any member. Mr. Wolfe.

Mr. Wolfe: The incarceration provision is important because it links our Ordinance with existing Florida statute with the State Attorney's Office and also I think it gives us a lot more meat in the Ordinance and gives some recommendations.

Mr. Teitler: And it's provided under 125.69 anyway for violation. And it's found in many of the other County Ethics Codes. So it's generalized.

Mr. Wolfe: Well, it links our Ordinance to State Statute.

Mr. Teitler: Yeah, and I'm going to remove the line that says as provided by this Code because it's going to be per the Florida Statute.

The Chair: Any other comments?

Mr. Fink: I think the collection of fines should be used as a year-end party of the Ethics Commission.

The Chair: What would be the value of that, Mr. Fink. I don't need a response. I'm just kidding. Ms. Rorapaugh.

Ms. Rorapaugh: Not to open up a can of worms, but should the hearing officer also be allowed to make recommendation for removal of office to the appropriate authority which I believe is the Governor? Or is that right now available by State Statute?

The Chair: Mr. Teitler?

Mr. Teitler: I have not seen another Code that they have the authority to do that.

Mr. Fink: Recommend?

Mr. Teitler: To recommend the removal?

The Chair: Mr. Wolfe.

Mr. Wolfe: I think your thought process – we have an Inspector General we're trying to set up that has the ability for he or she to refer to the appropriate agencies other violations of state law. Other violations of state law might include those provisions that would require removal of office pursuant to statute.

So if the hearing officer or the Inspector General does not have the authority to remove an official, I'm sure the Governor does and other officials do with their findings. He just suspends them. It's a suspension until –

The Chair: Ms. Rorapaugh:

Ms. Rorapaugh: I look at the Sanctions and Fines section separate than the Inspector General. This is ultimately what happens to you if you do wrong. The Inspector General helps to determine and sets up the process to where that investigation can happen. We have entities that they will refer to, including the hearing officer. But can that hearing officer also have in their took kit, a recommendation process for removal of office or recall from office – suspension.

The Chair: Mr. Teitler.

Mr. Teitler: Well, paragraph 2 really goes hand in hand with the Inspector General supervision and gives the person that the Inspector General hands it off to, the hearing officer, the State Attorney, which already has its own statute, but gives the hearing officer the guidelines on what to do at that point, so it really goes hand in hand.

The Chair: Mr. Scherer.

Mr. Scherer: What if the Commissioner is a serial Ethics Commission violator but short of a crime? Constant conflicts of interest, constant accepting of gifts –

Ms. Rorapaugh: Exactly. That's why I think it's important to have that ability to recommend removal from office.

The Chair: Were you done, Mr. Scherer? Okay. Mr. Wolfe.

Mr. Wolfe: My response would be that it would be subject to misdemeanors under this Code. They'd be going to jail for 60 days per occurrence possibly and that would trigger other investigations. If you're in jail for a misdemeanor, I'm sure the Governor is going to review it.

The Chair: Ms. Rorapaugh.

Ms. Rorapaugh: I believe we pulled the misdemeanor.

Mr. Scherer: The misdemeanor is gone.

Mr. Fink: It comes back up in C1.

Mr. Scherer: No, it does not.

The Chair: No, it doesn't.

Mr. Wolfe: It's my belief, and Rob jump in here, we're citing the misdemeanor – its existing in Florida statute.

Mr. Teitler: Right, 125.69 provides violations of County Ordinances shall be prosecuted in the same manner as misdemeanors are prosecuted and includes County jail not less than 60 days.

Mr. Scherer: What does that mean per Code?

Mr. Teitler: It means that if the finding – if there is a finding by – well, at that point, it would have to be referred to the State Attorney. If there is a finding of that severity.

Mr. Scherer: So if they find that a Commissioner repeatedly violates this Code – intentionally --

Mr. Teitler: Right, then the Inspector General hands it off to the State Attorney –

Mr. Scherer: And could be prosecuted as a misdemeanor under state law?

Mr. Teitler: Correct.

Mr. Scherer: Gotcha.

The Chair: Let's go back to Mr. Meyers. I want to get this in its entirety. And then we'll go back to discussion please.

Mr. Meyers: A County Commissioner who violates any provision of this Code, shall be assessed a monetary fine of between $250 and $5,000 per violation. Additionally, the hearing officer may order the Commissioner to pay restitution or to disgorge any sums wrongfully received by the Commissioner, and here's the blank, or the family member or principal, because it's a little broader than family members, as provided by state statute. It's somewhere in 112, I think it might 31.43, but it states if they represent a corporation also for example, that might be a gain to the Commissioner.

In determining the amount of the fine, the hearing officer shall consider the gravity of the violation, whether it was intentional, and whether it is a repeat offense. The hearing officer may determine that no fine shall be imposed upon an affirmative express finding that the violation was intentional and de minimis.

The Chair: Members? Mr. Fink.

Mr. Fink: The second part of the sentence, as defined by state statute, referring to –

Mr. Meyers: I'm going to fill that in upon review of the statute.

The Chair: Thank you, Mr. Meyers.

Mr. Fink: My point here is that earlier in this Code, we talk about what we define as the immediate family. And so maybe we want to refer to that as defined by state statute and in this Code?

Mr. Teitler: It's already defined.

The Chair: When we first debated that, we went to state statute to define it.

Mr. Fink: Okay.

Mr. Meyers: It's going to be same. There won't be any inconsistency.

The Chair: Members? I think that's what we're looking for, Mr. Scherer, based on your recommendation. Commissioner Shechter.

Commissioner Shechter: When you said a family member or a principal. How would this work in relation to a (inaudible) for example? Things come to mind where a Commissioner may have a brother who practices law or a husband or wife who practices law, well that would be a family member. But a non-family member. Not immediate family member.

Mr. Meyers: Sure.

Commissioner Shechter: How would that – would that fit into this?

Mr. Meyers: Well, what I was basing it upon was what was actually in the statute right now. But certainly you could make it broader if you want. I was using principal in the same way that the statute uses it which I think is corporation; there may be certain ownership requirements. I don't know the specifics, but certainly you would have the ability to make it broader.

Mr. Scherer: I think that applies to corporations, partnerships, or any other entity – a Hollywood Commissioner with a law office situation.

Mr. Meyers: It's not going to depend on the formal structure of the entity, I don't think.

Commissioner Shechter: Okay. Thank you.

The Chair: I don't want to open that can of worms. Members?

Mr. Wolfe: I'm good with that.

The Chair: I like it.

Mr. Wolfe: For doing it on the fly.

The Chair: Any other comments on Public Reprimand or Sensor? B or C? While members are looking at that, again, I'll preface this, Mr. Teitler, with an apology, but it's imperative, if you can, to do your best to give us something this evening. I know for me, we've worked real hard for a long time and to have a day to review everything and make sure that we've captured the essence of what we're trying to accomplish.

And I just want to make sure that members understand that it's imperative that once you had an opportunity to review this, that if you have recommended changes, that Friday we walk in here prepared with those recommendations written out as you were going to propose them so we don't go round and round.

Mr. Wolfe: We're not having the debate, just bring in the written notes.

The Chair: It will either be moved by a majority or it will be denied and then at the end of that, again, I want to give each member an opportunity to provide closing statements and then we'll call for a vote and again, it is my desire and I believe it's been the consensus of this entire group, that it's important that as we worked so diligently and so long as a group that we have a unanimous agreement in moving forward. It doesn't make sense to send something on that we as an Ethics Commission cannot agree to.

That is my desire. Obviously the process will allow for other. But I believe that's been the consensus that has been recognized thus far. Mr. Fink.

Mr. Fink: I'm just wondering if we're on Other Business?

The Chair: We're not unless there's no –

Mr. Fink: I mean other business on the Code?

The Chair: Well, we're on B and C right now. Any other comments with B and C?

Mr. Wolfe: I'm fine with it.

The Chair: There's a question on the floor -- when we inserted this language we weren't considering the Office of IG and under 2, it states collected fines may be used by Broward County to fund and promote Ethics Training and Education. Is that a funding source that we want to go to the IG as well?

Mr. Wolfe: I think we sort of referenced this in some of the other paragraphs. Should we put that in there probably to make it clearer?

Mr. Scherer: Why don't we just let them –

The Chair: They got to fund it where they fund it from is irrelevant? Okay.

Mr. Wolfe: We sort of alluded to it in other sections.

The Chair: Members, any other comments on B and C?

Ms. Coward: Just one question, we haven't seen the County Commissioners convicted on the misdemeanor for violating this Code. Is that the misdemeanor?

Mr. Teitler: We're moving that section. That's provided under this Code.

Ms. Coward: All right. I just wanted to make sure. Thanks.

The Chair: Any language issues with severability inclusion in Code? Ms. Rorapaugh.

Ms. Rorapaugh: I think I asked this question the last time. Is there any way since we are creating this in Code, that part of this could be if approved by the County Commission, could be put before the voters with that approval as Charter change?

Mr. Teitler: There's no authority in the Florida statutes to make part of this – any amendments be done through Charter or through referendum. This is being enacted as an Ordinance. So there's no authority to do that.

Ms. Rorapaugh: Can Ordinance dictate what goes before the voters as Charter change? Is it a Charter question? I mean, right now the County Commission is allowed to put something before the voters by Ordinance, is that correct?

Mr. Meyers: Well, I don't know if there's referendum Ordinance provision, but the County can issue by what I believe is a supermajority vote, but can put a Charter provision before the voters.

Ms. Rorapaugh: And is that rule established by Ordinance or by the Charter?

Mr. Meyers: That's by the Charter.

The Chair: Other Business.

Ms. Rorapaugh: When do you want -- do you want us to put like the language change -- I was going to see from what we did at our last meeting – do we just want to do that on Friday? It's pretty simple.

The Chair: No, let's go. Go ahead.

Ms. Rorapaugh: This is on page 8, section 3, lines 6 and 7. The County Commissioners –

The Chair: Give them a minute. Page 8, section 3, lines 6 and 7.

Ms. Rorapaugh: Right now it reads, County Commissioners who accept campaign contributions for other candidates for public office. I would like to strike through "organized fundraising events" and go directly to shall disclose. The second thing –

The Chair: Before we go on, any comments on that recommendation?

Commissioner Shechter: What is the recommendation, Robin?

Mr. Fink: Read it as you would want it.

Ms. Rorapaugh: County Commissioners who solicit campaign contributions for other candidates for public office shall disclose on a form provided by the County Attorney's Office and file public disclosure in a manner designated by –

Commissioner Shechter: So take out organized fundraising events.

Ms. Rorapaugh: You got it.

The Chair: What's your issue with that, Robin?

Ms. Rorapaugh: Because most politicians don't raise money for other politicians, they just pull in checks.

The Chair: Thoughts or comments from members?

Mr. Wolfe: It's fine.

The Chair: Any opposition to that recommendation? Robin, your next one.

Ms. Rorapaugh: The next one is same section, line 11, the location and date of any associated event, as opposed to the event.

The Chair: And what's the difference?

Mr. Meyers: If you change the first part, you have to change that.

Ms. Rorapaugh: Exactly.

The Chair: Any opposition to the recommended change in that language? None being heard, I believe Mr. Fink had the floor.

Mr. Fink: On page 9, under Procurement, section A, line 6 through 9. I understand the reason for this. I don't have a problem with it. I'm more concerned with the wording and the inquiry into the ranking and selection of the particular vendor.

Really, I think what we're trying to accomplish there, and we never did address the Cone of Silence and I don't know if that's something we're going to specifically get into in the Code or not, how it either needs to be extended or eliminated the way it exists now or no longer remain a one-way street.

I'm more concerned that the Commissioners should have a workshop which is what we wanted once the decision had been made before it comes to the dais or the meeting will drag on all night. But I don't think they should be able to question the rankings that were made.

I think they should just be able to question why and how they came to the conclusions they did. But I don't think they should be able to examine the individual ranking sheets, which is what they might be able to do the way this is worded from the Selection Committee members.

The Chair: I would say that's public record. I don't know how we prohibit that. But I hear what you're saying. I think my – forget about the specific recommendation of a workshop. I think my intent was never to have that become an inquiry, but they have the opportunity to ask appropriate questions in the appropriate forum and I don't think that is at the dais when they're going to vote on the issue. We will bog down the County Commission.

Mr. Fink: and I totally agree.

The Chair: So whether they do that individually or in the form of a workshop, I really don't have a preference. If I read into this language, I can – it kind of reads once you decided who you think they are, I'm going to come sit with you and justify that 1, 2, 3.

Mr. Fink: Well, I was going to suggest it read, it may inquire into the selection of the particular vendor and remove "in the ranking." Okay? So it would read, upon the completion of the selection process by the Committee, County Commissioners may inquire into the selection of the particular vendor and express any concerns they have.

The Chair: Okay, Ms. Cepero wants to provide some clarification and then Mr. Scherer and Ms. Coward.

Ms. Cepero: I believe during the discussion of this matter you guys had used the words due diligence and that might kind of solve all of that and just wanted to remind you guys of that discussion.

Mr. Fink: Where would you insert that?

Ms. Cepero: County Commissioners may exercise their due diligence –

The Chair: Right now, there's a recommendation on the floor by Mr. Fink. There's some clarification by Ms. Cepero. We are discussing the issue. And if there's not support, then I'm going to ask for some specific language. Mr. Scherer.

Mr. Scherer: I can't agree. I think once we eliminated the Commission and staff has it, I would want them to be able to ask about the selection and the ranking and everything else. Because the staff – we could be having the problem with. So that's a check and balance I would think. Because the Commissioners are not going to be on there and if they think the staff has the – what was the word, sandbag or whatever – I would want them to look at the ranking and open it up.

The Chair: Ms. Coward.

Ms. Coward: I completely agree, Mr. Scherer. And that was the point I was going to make. I think they ought to be inquired about the ranking. They have to make the decision so they ought to know the rationale to see how one person, you know. They can't make them change it but they ought to be able to inquire.

The Chair: Can we simply just give them the right at the time of the ranking – at the time the process is over, we give them the right to inquire, conduct their due diligence, whether they choose to ask about the ranking, or the

selection, or who that vendor is and I need some reference information. Let them inquire, period. Rather than give specific approval to inquire about the ranking and the selection.

Mr. Scherer: Who are they inquiring of, the members of the Selection Committee?

The Chair: It says the Purchasing Director. And again, I'm going to want to talk to the Selection Committee members, I'm going to want to talk to the vendors who applied, I want to talk to their references –

Mr. Fink: I agree but my concern is the unintended consequence. If the Selection Committee and in many instances, the same Selection Committee could sit again and again and again, because the same department would be supplying the Selection Committee members. If their rankings are picked apart once or twice, they are going to be more hesitant in the future. Okay? They are going to get gun shy if their rankings get picked upon consistently. And the unintended consequences coming down the road.

I think they have to do due diligence. That's what they're being paid to do in picking these contracts but I don't think they should be able to look at the individual ranking sheets of the individual Selection Committee members.

The Chair: That's public record. I don't know how you prohibit a member of the public from viewing a public document. Mr. Wolfe.

Mr. Wolfe: I didn't bring my last minutes notes, but didn't we agree or suggest a little tweaking of the language to make it very clear that a County commissioner shall not contact or influence in any manner any staff member on that Selection Committee?

The Chair: During the selection process, yes.

Mr. Wolfe: During the selection process, and I don't see that in here. Shall not participate does not make it strong enough. If I pick up the phone and call the County Administrator and say I want Suzy Q. from staff to be on this committee process or I want staff X to be on it.

Mr. Teitler: But the Charter has the non-interference clause in there, so that really does cover –

Mr. Scherer: Shall not participate or not interfere.

Mr. Wolfe: I would like to put something in there so it could trigger an investigation.

The Chair: I don't want to do anything to get away from the intent of what we're trying to accomplish but I also want a County commissioner to be able to do their job before they vote on a contract and if we just say to them, when it's done, you can ask the questions you need to ask. If its selection ranking, it's selection ranking, whatever, let them do their job. Let them ask the questions.

Mr. Wolfe: I agree with that. I'm saying before that selection is done, I think we need to add a couple more words there to make it very clear that there should be no contact –

The Chair: I'm not disputing what you said. Mr. Fink's recommendation on the table is that they not be allowed to address the ranking and that's part of –

Mr. Fink: That's public record, sorry, I understand that. My concern is the unintended consequence of down the road. Then my question is how do we address that?

Mr. Scherer: Put in two words; or interfere after participate on line 5.

Mr. Fink: Which I think is a good idea.

The Chair: And do we change the specific language, County Commissioner may inquire into ranking and selection of a particular vendor and just may inquire into the selection process.

Mr. Scherer: I think leave it the way it is. I want them to inquire into the ranking and selection. I really think that ought to be as transparent as we can make it so if they are sandbagging it, we will be able to know it. We don't want staff to sandbag either.

Mr. Fink: I agree, but Bob made a good point. That not only shall not participate or interfere, okay, in any manner at committee meetings or in the selection of the committee. Because the point you are making is that they can call and say I want Suzy Q. on that committee.

Ms. Rorapaugh: Staff members on Selection Committees are approved by the County Commission.

Mr. Fink: Or in the selection of committee members.

The Chair: Ms. Coward.

Ms. Coward: I understand the discussion that's going on now but to me, it's separate and apart from the underlying thing we're trying to decide what we're going to change. So for me, I would like to take it in isolation, the language that is already underlined. Leave that in as ranking and selection and then go back to

the sentence that is right before with the interfering and etc.; can we separate those and move forward accordingly?

Mr. Fink: All I was suggesting is that the Commissioners, and I'm reading, the Commissioners may inquire into the selection of the particular vendor and express any concerns. I was just asking to remove the word the ranking. Because if it's public record it's in there and implied anyway. And that's what is on the table. I just – the unintended consequence down the road is what I'm getting at. Since we can't stop them, but you can remove that and it doesn't change the nature of that sentence in the first place.

The Chair: Can we say any and all aspects of the selection process? We're not limiting them to anything. We're telling them to look at anything; as little as you want or as much as you want. I don't want them going after one area but I don't want to tell them what to go after. There might be a Commissioner that says I'm not interested and that's not my question.

Mr. Fink: I'm okay with that. Ms. Coward.

Ms. Coward: I'm okay with that. I was going to say that the consensus of the Commissioners is that we're okay with them asking questions about the ranking. So we either leave the word ranking in or we put a phrase in like you just suggested that includes ranking without specifically –

The Chair: Any and all aspects of the selection process.

Mr. Fink: I can live with that.

The Chair: Is there any opposition to that language? Any and all aspects. Now we need to move back up to that particular language.

Mr. Fink: If I may piggyback off of what Bob said and we're on line 5, selection evaluation committee and shall not participate or interfere in any manner at the Selection Committee meetings or in the selection of that committee, or the selection of the committee members.

The Chair: Ms. Cepero.

Ms. Cepero: I just want to point out that I guess just to be careful how that is worded because at the end of the process, as Ms. Rorapaugh pointed out, the County Commission is actually the one who approves the members on the Selection Committee.

The Chair: That needs to change.

Ms. Cepero: It's in their agenda process.

Mr. Fink: We need to change that.

The Chair: What have we accomplished if now, in lieu of them, is an appointee?

Ms. Cepero: They're appointed by the County Administrator and to my knowledge, has never been challenged or changed.

The Chair: I hear you.

Mr. Fink: But now that we've changed the game, that would give them license.

The Chair: That's great information because I didn't know that. And so now you've taken me out of the game, that County Administrator works for me, that's undue influence in my opinion. Take it out, let the County Administrator make those appointments or as this says, the Department Head. It's all going through County Administrator anyway.

To allow that to be approved or disapproved by the County Commission, we've put it right back into their hands. Ms. Rorapaugh.

Ms. Rorapaugh: I think one of the reasons historically that has been the case so that in the instance of a very strong department head, etc., etc., who wants a specific vendor, it has been known that they only recommend staffers who will grade a specific vendor higher than any other vendor.

The Chair: And I don't dispute that but the County Administrator is the boss of that department head and the County Commission is the boss of the County Administrator and it's going to have enough influence over the County Administrator to dictate the process anyway. How that happens, we can't stop. That's the structure of this government. It's a commission form of government. At some point, that County Administrator is going to have to run the show and if they have a strong department head that is swaying the process, she needs to take control of that in this instance. Mr. Fink.

Mr. Fink: May I offer some wording? With the adoption of this Code, the Board of County Commissioners shall no longer be able to approve the Selection Committee members.

The Chair: Mr. Meyers, would you like to comment?

Mr. Meyers: Yeah, I was going to say you could even tack on to the end of what you added before, and just say, or in the selection of the Committee members, which members shall be selected by the County Administrator.

Mr. Fink: Without approval of –

The Chair: If you say the County Administrator, it's the County Administrator. All right. Members I'm going to need a consensus to either extend this meeting another 15 minutes or stop at this point, and allow staff an opportunity to recap so we can close.

Mr. Wolfe: We're fine. Got a lot of work to do.

The Chair: We're not extending. Ms. Cepero.

Ms. Cepero: Again, a lot of it is Mr. Teitler's. The two things that I will follow up on is reaching out to FDLE and to Nova Law School to inquire about the willingness and ability for those two individuals that were listed.

The Chair: Or their appointee.

Commissioner Shechter: What about the other three?

Ms. Cepero: My direction was to those two but if you want me to reach out to the Chief Judge and the State Attorney –

Commissioner Shechter: Check them all.

Mr. Fink: I agree, especially since we have a concern if the JQC will allow it.

Ms. Coward: I thought we were not going to ask about those positions because it doesn't matter – we were only going to check with the circuit to make sure it's not a judicial violation.

Mr. Scherer: Somebody ought to call the Chief Judge to see if either him serving or his designee before we come back on Friday. He may say no.

Ms. Cepero: I will check with all five.

The Chair: Well, definitely the Chief Judge. And if you can get all five, great. If there is any objection to any of those positions, please send them all to the Ethics Commission so we can begin to think of others before Friday.

Ms. Cepero: Great.

The Chair: We're not ready to leave yet.

Mr. Scherer: Before we get to Friday, I wanted to know if you wanted to allow lobbyists to run campaigns to lobby. Because it seems to me, we wimped out on that. I just want to kick that out.

Mr. Fink: Thank you. Thank you.

The Chair: We're either going to extend this meeting or close.

Ms. Rorapaugh: I move to extend.

The Chair: There's a motion to extend the meeting 15 minutes.

Ms. Rorapaugh: First, on old business before –

Mr. Wolfe: Second.

The Chair: Okay, just hold on a second. Moved by Ms. Rorapaugh. Second by Mr. Wolfe. All in favor, signify by saying aye. Any opposed? Meeting is extended. Ms. Rorapaugh, you have the floor.

Ms. Rorapaugh: If I could add one more just as in backup because I have been thinking about this Selection Committee. Could you check and see if there would be any reason why the Chairman of the State Ethics Commission could not be a fallback position for us.

Mr. Wolfe: I don't think so. They can't even speak at a function. We've tried to get some of their members to come and speak.

Ms. Rorapaugh: In the Selection Committee?

The Chair: Rather than trying to put some new issues on the floor right now, the meeting was extended from my understanding, to address the recommendation of Mr. Scherer, which is already in our draft. So let's get back to that if you will. Give me the reference to the section, Mr. Scherer, so everybody can look at it.

Mr. Fink: It's not in here.

Mr. Scherer: It's not in there.

Mr. Fink: I brought it up at the last meeting and didn't get any support,.

Mr. Wolfe: It was voted down.

Mr. Scherer: I just want to make sure that we all agree that that should not be in there.

Mr. Fink: Lobbyists.

The Chair: Well, is there any member that voted it down the first time that wished to change their position.

Mr. Scherer: I would move to reconsider.

The Chair: Okay. Ms. Coward.

Ms. Coward: Just a point of information. I'm not clear on why we're isolating different sections now to rediscuss and then to rediscuss again on Friday. I don't understand why we're not looking at this the way it is now and then propose specific language in writing on Friday. I think we're moving backwards and not forward in the process.

Mr. Scherer: I just want to kick that around because I'm not sure that we had a majority – probably do.

The Chair: So that you know –

Mr. Scherer: I don't have to write it. If we get it in the next 15 minutes and have Rob write it for us.

The Chair: Well, we still need to finish some administrative things so we don't have 15 minutes. So we need to recap before we go and approve the minutes. I agree with Ms. Coward from the perspective that we've said here is how we're going to do it.

Are we going to deviate from that? I don't want to get into recrafting this entire code so if you have a specific recommendation and we know now that you have a heads up that there is an issue of whether we want to leave it as is or whether we want to say lobbyists who run campaigns want to do both. But that language needs to be submitted and needs to be read into the record.

Mr. Scherer: Legal counsel had a little bit of a problem with that. And I think he could have drafted around what is a campaign, who is a campaign official, and how high up. That's why I'm bringing it up now so he could write something on that because there was an issue.

Mr. Teitler: As Monica mentioned, when this issue came up before there was an scope issue that was dealing with regulating lobbyists and we're dealing with regulating the behavior of County Commissioners so that was argued at that point as being beyond the scope as well.

Mr. Fink: Mr. Chair, I may have a solution.

The Chair: Mr. Fink.

Mr. Fink: I think that we may have the solution because I thought about this for the last week. Could we not put in the Code that a Commissioner must recusee themselves if a lobbyist coming before the Commission served as a campaign or assistant campaign manager. Because as you pointed out, a Commissioner should recuse themselves if that happens but what is happening now, they are not.

Mr. Wolfe: We discussed this – we already discussed this issue for a long time and good points on both sides. If you want to come back and put something in writing. I don't want to debate this again.

Mr. Scherer: I don't want to do it. I'm not going to go to the trouble if it's not the will --

The Chair: I agree. Let me try to pull this back in focus. And if the majority thinks I'm reading this wrong, let's certainly bring it up. We haven't agreed that if an issue is voted down we're going to come back and try to get it back on the agenda.

What we said was if there is language in there that's been approved that we can't live with as we just did on several items, we're going to address those issues and tweak that language. I don't want to get into reopening debate because if that's the case, then we start going back to wait a second, I had a position on this that I didn't get passed and I want to discuss that again.

We talked about and agreed upon unanimously that we would look at some language issues as we go forward, as we just did. There are several examples that we just did. I don't want to get into and I don't think it's appropriate to retable issues that were defeated unless there is some new compelling argument or evidence and I think in this case, it was clear it was outside of our scope and we voted the issue down after much debate. Ms. Rorapaugh.

Ms. Rorapaugh: I forgot the vote but I think what Mr. Fink was saying though may pull it back into our scope if it's the will of the Commission and if that is the will of the Commission and if either of you are going to craft language, can I say not campaign manager or campaign whatever, but agent of the campaign. It's the part of the language for identification for that.

Mr. Scherer: Mr. Chair, I move to reconsider. As one of the majority on that.

Mr. Fink: Second.

The Chair: Okay. There is a motion to reconsider. Second by Mr. Fink. Any discussion on that motion?

Ms. Rorapaugh: And this is for them to recuse themselves from votes with agents of the campaign?

Mr. Scherer: Right.

Ms. Coward: I would like to move forward. I would like to move toward closure. I don't want to redo all debates if we're going to have to do it again on Friday. I would urge us to allow them to consider this and come back with the specific language, and we can move it, debate it and do that on Friday and do that on each item as opposed to reopening the entire discussion or debate. There are some things we decided that I personally disagreed with.

But I'm not going to reopen it up for debate because I disagree. I think we should plan to do what we planned to do so we can move forward because otherwise we aren't going to finish this in the next ten minutes and then we won't have anything to review tomorrow.

The Chair: At this point, there is a motion on the floor to address the procedure of this and the member is asking that we reconsider the process and consider changing this section. The motion has been seconded by Mr. Fink and we need to call the question and decide if that is the process we are going to do or stick where we were. All in favor?

Mr. Scherer: Point of order, you lost me. I move to reconsider that lobbyist issue. And we got a second. I think we need to vote that up or down.

The Chair: I'm trying to call the question. All those in favor, signify by saying aye. Any opposed, same sign? I think the motion fails.

Mr. Fink: That motion failed to reconsider, but according to what Alfreda just said, that we can submit the language?

The Chair: That's the process we agreed on. If you have specific changes to the language that's currently in our draft that has been approved thus far, please bring them in writing on Friday and be prepared to present that in its entirety and we'll decide if that carries enough support to move forward or if it's been rejected and dies. Mr. Meyers.

Mr. Meyers: A suggestion to be able to move forward on Friday, you're going to present that language and show where it goes specifically.

The Chair: Very specific. We're not going to bog this process down. Again, the intent folks, is that we're not going to bog this process down to recreate what we didn't get through the first time. Ms. Rorapaugh.

Ms. Rorapaugh: I had a question on process. We finish up on Friday, hopefully with a unanimous vote and thank you, Chairman, for getting us to that point. What remains in the process after that?

The Chair: My understanding from several discussions with Mr. Teitler and review of the opinion, is that we then forward that final approved Ordinance to the County Commission. They are going to have time to review it before their 3-2 meeting and they either accept it in its entirety or reject it. If they ask if anything has changed, my understanding is that that is a rejection of our recommended Ordinance and it goes to the voters on the November ballot.

Mr. Meyers: You said the 3-2 meeting. And I haven't read the Charter provision recently, but I think once you submit your final draft to them, they have six months to accept or reject.

The Chair: My 3-2 meeting was it has to be before them at the 3-2 meeting.

Mr. Meyers: Sorry. So basically right now you intend to finish on Friday.

The Chair: They requested it as early as they can get it. We're trying to give them some time before the 3-2 meeting which the referendum says we had to get it to them by –

Mr. Meyers: But this is going to be your final draft – you're not looking for –

Ms. Rorapaugh: That's not my understanding why we rushed so that they would have it early. My understanding was that the Mayor came before us and said we would like to get it early so we can come back to you with any recommended changes before it's a final draft so that why we are here this morning, etc., etc.

The Chair: So if we're going to try and reconvene give them a date we will be back?

Ms. Rorapaugh: Yeah, but the Mayor needs to –

Mr. Wolfe: Let him come back.

Ms. Rorapaugh: And then reconvene?

Mr. Meyers: Well, you would have to reconvene because if you are giving a non-final draft to allow somebody to comment –

Mr. Fink: I'm not.

Mr. Wolfe: I'm not, it's a final draft.

Ms. Rorapaugh: I thought the Mayor sat here and asked for that and we agreed we would – that's why we're trying to finish up by Friday, was to give them a period to come back to us.

The Chair: Commissioner Shechter.

Commissioner Shechter: I thought he wanted an advance copy so it would come to them for the first time on March 2nd. It wasn't supposed for him to come back and negotiate with us to change everything we've done.

The Chair: Hold on a second. Let's be recognized. Ms. Rorapaugh. Then you look like your itching.

Ms. Rorapaugh: I believe this was a conversation that happened under the auspices of a collaborative effort and I may have misunderstood what this Commission agree with the Mayor – not with a vote – but as consensus when he was last before us – I don't believe we said we would negotiate but he had wanted an earlier version so if there was something technical or whatnot he could bring it back to us. That could have been my misunderstanding.

The Chair: Here is what we are going to do. We are going to decide how we want to go forward when we're done with this debate. Mr. Scherer.

Mr. Scherer: I thought we were going to give them this draft and they can look at it and come back to us and say you might consider, you have a train wreck here or there or anywhere and then we could correct it if we indeed have a train wreck because we don't sit on the County Commission and we don't know what they have to do. And then we can change it or not change it. Which means we would have to have another meeting after Friday. I don't want to come anymore but I would be willing to do one more.

The Chair: Mr. Fink.

Mr. Fink: I have to agree with Ms. Rorapaugh and Mr. Scherer, and this is the last time I'll use their last names and Ms. Coward is nodding her head. But I was under the impression that we did that this way because if they wanted to call us to reconvene, because we are dissolved on March 2nd, no matter what happens, we were giving them the advanced copy so if they wanted to come back to us about a train wreck or ask us something that we did not cover or put in there, that they could have the ability to come back to us, that we'd like you to reconvene one more time before the deadline.

The Chair: I didn't understand it that way and that's okay. I am willing to consider any amendment at this point. But if that was the case, then why did we say, look, they got the working draft, they should be following us, we invited them to be engaged, and if you have any questions or concerns, bring it to our attention. We outlined when the last two meetings would be, what our intent was for final vote and when we're going to present it to them. We don't have to reconvene to bring us those issues. I

If they're listening today and they may not. But I'm getting back to the intent of that agreement. If you want it early so you can look at it before your meeting to discuss it – whether they decide to go on and drag it on six months and whether they decide to vote for it at that meeting, I don't know. But my intent anyway was you're involved in this process. We're not closing the door, you can come anytime, and make any comment, and address any concern and we will table that issue. Ms. Coward.

Ms. Coward: My recollection was that what we said, whether it was right or wrong. That was what we agreed to do. Because of absent that, there is no reason to rush this by the 12th. Because otherwise we will give it to them on the 2nd and they will take a month to look at it. There is not rationale to rush it if we did not them to have an opportunity to look at it. We said let them look at it and they can come back with any comments and we can say thanks for your comments and go forward or say, oh yeah, you're right, we didn't think about that. I don't see the harm. We're moving toward a conclusion. Why not let them look at it and opportunity to have access to look at it.

Mr. Chair: Mr. Teitler and then I will need a motion to extend the meeting.

Mr. Teitler: So we would have to schedule a final meeting to vote.

Mr. Chair: That's why I need an extension. I'm sorry. Mr. Wolfe.

Mr. Wolfe: Well, we are debating stuff we don't know about. I think we should come Friday prepared to get this done. And then it's contingent upon the Mayor coming back and I talked to him last night and there was no mystery – the minutes were read in their entirety. We discussed every issue last night. I'm not sitting here to debate even the stuff I disagreed with. I think we vote a final copy down. We have until the end of the month when it's formerly presented by the Chairman. If an issue comes up, the Chairman can call us back in. Remember, we're not dissolved tomorrow. The Chairman is going to present this in March. If there is an issue, the Chairman calls us back for scrivener's errors or whatever the issue might be. That's what I would propose.

The Chair: Commissioner Shechter and then I need a motion to extend.

Commissioner Shechter: Monica, didn't you give us kind of a timeline that you needed because you had to put it together and printed and delivered to them so it gets on the agenda by a certain time? And isn't that why we were pushing to finish it on Friday.

Ms. Cepero: Well, there were a couple of reasons of why you guys were pushing it. If there is one more Commission meeting before that March 2nd date and that is February 23rd. In order for us and County Administration to get that agenda in proper format to deliver to the Commission, we would need to get the proposed Code and any documents that need to go with it by the 17th which is Wednesday.

Now, if it is the will of this Commission to get it in front of the county commission on February 23rd, that can happen so long as you guys finish on Friday.

Commissioner Shechter: We have til March 2nd so February 23rd is not an issue.

The Chair: I need a motion to extend the meeting. Motion by Mr. Wolfe and seconded by Mr. Scherer. For how long? Fifteen minutes. Final extension. All in favor signify by saying aye. Any opposed, same sign.

Commissioner Shechter: We're not under the gun for February 23rd. What is your deadline for the March 2nd meeting?

Ms. Cepero: I would need it to print by February 24th.

Commissioner Shechter: So there's no real big problem why they can't come back.

The Chair: I agree with Mr. Wolfe. I am not ready to throw the baby out with the bathwater. We have a schedule. There is no reason why we can't stay on the proposed schedule. We're going to come Friday prepared to finalize this. If – that's the question we don't know – if the Mayor says I want to talk to you as a group, Monica will have to schedule another meeting before then and we'll reconvene because there is an issue they want to address. Short of that, let's finish it as scheduled.

Look, I appreciate everybody's commitment to the schedule. The fact of the matter is there's nothing here to derail us. If they call us back, they call us back. If they don't, we're done and I think we can stand proud.

All right. Let's finish up on recapping. So that we can get out of here.

Mr. Scherer: Did we recap that Rob was going to draw that one revision on the lobbyist – then I won't have to.

The Chair: Ms. Cepero, do you have any other? Mr. Teitler, do you have anything?

Mr. Teitler: No.

The Chair: I need approval of the February 4th minutes. Moved by Mr. Wolfe, second by Mr. Collado. Signify by saying aye. Any opposed, same sign. (Minutes were approved unanimously.) Mr. Meyers?

Mr. Meyers: Nothing.

The Chair: Thank you. Motion to adjourn.

Mr. Wolfe: So moved.

The Chair: Thank you, Mr. Fink.

(The Chair adjourned the meeting at 12:15 p.m.)

Verbatim
Broward County Ethics Commission
February 12, 2010

MEMBERS PRESENT: Commissioner Neal De Jesus, City of Cooper City, Chair
Commissioner Carl Shechter, City of Pembroke Pines, Vice Chair
Howard Bakalar (Telephonic)
Commissioner Felicia Brunson, City of West Park
Washington B. Collado,
Alfreda D. Coward, Esquire
Kenneth Fink
Robin Rorapaugh
William Scherer, Esquire
Paul White
Robert Wolfe, Jr.

ALSO PRESENT: Monica Cepero, Assistant to the County Administrator
Andrew Meyers, Assistant County Attorney
Ellen Brodsky, (Phonetic) Member of the Public/Broward Election Reform
George Morgan, Member of the Public/Broward Workshop
Jean Russo, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the transcript of this meeting.)

An Ethics Commission meeting was held at 8:06 a.m. on Friday, February 12, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

(The following is a near verbatim transcript of the meeting.)

Good morning. The time is 8:06. I am calling the meeting of the Broward County Ethics Commission to order. May I have roll call, please.

(Roll call was taken by the real time reporter.)

Thank you. This morning we have public testimony first. The only speaker card that I have now is Mr. Morgan. Would you please step up here and address us? Anybody else from the public wish to speak to us this morning? Mr. Morgan, thank your for joining us. You have three minutes. At the end of your time I will ask any members if they have any questions for you. So if you would just stay and see if they do.

(Ms. Coward entered the room.)

MR. MORGAN: Thank you very much. My name is George Morgan. I'm here both as a citizen of Broward County and a representative of the Broward Workshop. A couple of years ago the County Charter Review Commission took up the issue of ethics as a part of many things they looked at. And the Broward Workshop created a white paper report and came out and actively -- proactively supported ethics reform. We didn't accomplish everything that we hoped for with that particular initiative, but we did get measures passed, and when I say, "we did," it was not just obviously the Broward Workshop, it was the collective efforts of a lot of organizations and the Charter Review Commission itself. This Board is the result of that effort. And I'm extremely happy to be able to say that this

Board has done more than we anticipated or expected back in 2007 and 2008.

(Mr. Scherer entered the room.)

I think this Board should be highly commended for the work that has happened. You have been open, you have been honest, and you've stood up, under what we know, has been some fairly serious lobbying efforts by people to change some of the things that you have been trying to accomplish here, diminish some of the effects and efforts, and you all have resisted that. And I applaud you for that. The truth is that, yes, these are tough issues; they're not as simple as saying, let's be honest, or let's not do things that are wrong. That's easy stuff to say. It's easy to have platitudes. You know, the mantra of "it's time for a change," is really worn out. Every candidate that runs for office is proposing a change if they're running for the first time, but this is meaningful change, and the voters and the citizens of this County deserve nothing less. You know, we can sit here for the next half hour, or hour, and debate various things that have happened; both at the city level; even in the Sheriff's Office, and at the County Governmental levels that have brought a certain amount of fairly obvious disrespect, or for lack of a better term, put this County in a very bad public light. And this is an opportunity for us to codify and to give clear and consistent rules and guidelines. You all have done that. And I just want you understand that the Broward Workshop vigorously supports your efforts and we intend to continue to support your efforts when this goes before the County Commission. And in the event that the County

Commission, for whatever reason, elects not to pass and approve what you all have done here, and this gets taken to the voters in November of 2010, later this year, we will take a very active position with the public, and we will seek the public support.

(Mr. Collado entered the room.)

We will try to educate them on why this is important, why the features that you all have given are so critical to the long-term ethical behavior of government; not hopefully just at the County level, but all the way down to our municipal levels and to all levels of public office. So again, I want to say thank you for the opportunity to speak to you when you all first met, and thank you for the opportunity to speak again today. I just want to go, as I say on the record, you all are doing a fantastic job and we strongly support what you are doing and we will continue to support you all.

THE CHAIR: Thank you, Mr. Morgan. Any members of the Commission have questions for Mr. Morgan, or comments? None being heard. Thank you very much for your time.

MR. MORGAN: Thank you.

THE CHAIR: Any other members of the public here that wish to speak?

MS. CEPERO: Can I make a comment?

THE CHAIR: None being heard, we will close the public comment. Ms. Cepero.

MS. CEPERO: Yes. Over there in the stacks of information I some provided some public comment that was distributed -- or sent to me

via e-mail this morning that I was asked to share with everybody. I believe that gentleman was going to be hear this morning to speak, but has not yet arrived. So it's over there. I just want to make sure everyone had a chance to see it. Mr. David Smith. (Phonetic)

THE CHAIR: We will move on to close public testimony at this time. We will move on to Continuation of Working Draft. Before we engage in that, I will once again review the ground rules that we agreed upon. We have a final draft before us -- Mr. Meyers the copy you just handed us; is that different than the copy that Mr. Teitler sent to us?

MR. MEYERS: No. That is the copy that Mr. Teitler sent.

THE CHAIR: Thank you. As discussed, if we're going to go through the document section by section, if there is a member that brought a recommended amendment, that they will read that language into the record. We're not going to go back round and round again, as we have in the past and debate those issues once over, but if there's a majority support to move that issue forward, we certainly will, and ask staff to make those corrections and move forth. And when we reach the end, barring any major changes that it's going to take staff a whole lot of work, we will ask the County Attorney to see if they can get their staff -- we'll take a recess, ask the County Attorney's Office to see if they can get staff to make corrections in a final form, and bring it back to us. We'll give the members some time to read through that and then call a final vote on the document to be presented to the County Commission. With that being said, starting on Page 1 section 1 --

MR. SCHERER: Point of order.

THE CHAIR: Mr. Scherer.

MR. SCHERER: Yeah. Before we start, I don't agree with what you just said, and I'm sorry with respect to how you intend to operate today. And I want to just make a brief statement. I conferred with Mr. Meyers and looked at this and conferred with some lawyers in my office and we have a problem, and the problem is just this. We're trying to draft perhaps a Charter change if that's what it means, we don't even know that yet, because we don't know legally whether this is an Ordinance that can be changed that will -- even if the voters approve it or it's a Charter change. If it's a Charter change the language should be different, but this group, "on the fly," has done a very, very, good job of working very hard to do what we're trying to do, but we're not in a position to draft Charter language or really even legislation, which we're trying to do. We have ideas that we're putting it in to practice. If this was a State Statute it would go to Bill drafting and it would be 20 people grinding on it, from constitutionality, for problems, for wording, for gaps or holes -- we haven't done -- and that is why I had a headache the last time. I had a headache when I've been looking at it. And I have a suggestion that we do what the Chairman plans. We grind through it as best we can and then it becomes a Draft and goes to the County Attorney's Office, where they have great staff, and they can put a lot of people on it to go in and do just exactly what Bill drafting will do in Tallahassee or in the Senate or in Congress, and then come back to us if we have problems or glitches that we have to then approve it in a final Bill

at the end of the month, and it would necessitate another meeting, maybe it can be very short. The other problem is we don't know whether this is an Ordinance or a Charter change, because the referendum that was approved by the voters is unclear. What if we pass this to the County, the County Commission says, no, it goes to the voters, the voters overwhelming adopt it, and the very next meeting the majority of the County Commission revokes it, because the County Commission can revoke an Ordinance. We need to cover that somehow here. And perhaps -- I passed that along, and Mr. Meyer and I talked about it (inaudible) so we need to think about that. So with that being said, I'm nowhere trying to work for a unanimous deal here, but we have some glitches.

THE CHAIR: Before I open the floor for members to comment, Mr. Meyers, could you opine on that legal?

MR. MEYERS: Certainly. I assume everybody can hear me. It would be an Ordinance. Whatever is enacted, certainly by the Board of County Commissioners, if it's approved, would be an Ordinance. I believe the Charter language also states that it would be enacted as an Ordinance, and Ordinance essentially by referendum. Now, I haven't researched the issue, and I don't know that the legal effect of that is in terms of, normally the legislative body can supersede earlier legislation, earlier passed legislation by an ordinary majority. I'm not sure what the impact would be if this was passed by referendum; however, you know, we can certainly research that issue, but the Charter question is already set, what this is going to be and how this is going to play out, whatever it is.

And it's going to be an Ordinance -- is going to be passed by the Board of County Commissioners or ultimately by the voters, and then whatever rights the County Commission has as a legislative body to amend that, or whatever those legal rights are. As Mr. Scherer said, we're happy to research it, and we're happy to report back on that issue, but we are more or less stuck within the confines of the Charter Amendment on that point.

THE CHAIR: Do you have any personal thoughts of recommended language that would help us prevent the County Commission from being able to change this once it's passed either by them or by the voters?

MR. MEYERS: Well, one thought that comes to mind -- and again, I would want to research this and don't like to give legal advice "on the fly," on these points -- but certainly you can have a provision in there for a super majority, which would limit the ability of the Board to change it by a simple majority. Other than that, I would try to research and look at the affect of essentially a referendum. Ideally if this would have gone to the voters it would have been a Charter amendment, or the Charter Commission would have drafted it in a way that it would have been prepared and it would have been presented by the Commissioners instead of just passing it as an Ordinance, going directly to the voters as a Charter amendment. Then obviously it's outside of the legislative prerogative. Given that it's inside the legislative prerogative, the only thought that immediately comes to mind would be to impose some sort of super majority

requirement. But again, I have not researched that issue and that is something I would like to look at.

MR. FINK: Did I understand you to just say that if it went to the voters as a referendum then it would be a Charter change?

MR. MEYERS: No. I believe under the Charter language -- I apologize, I don't have it in front of me.

MS. CEPERO: I have it.

MR. MEYERS: I believe that -- I remember reading -- I believe it was a little bit odd in the way that it would be applied. I think that even if it goes -- it's approved by the voters, which would only occur if it was not approved by the Board of County Commissioners, that it would be included in the Code of Ordinances.

MR. SCHERER: I have a fix, I think.

MS. CEPERO: I have the language here.

MR. SCHERER: I think that we put the provision in here that says that this Code shall be adopted by the County Commission or go to the voters on a referendum and that it shall only be changed, the terms of which should only be changed on a referendum of the voters. And put that in there. Rather than a super majority, just put in there that if the County Commission wants to change anything that is in here they have to put it on the ballot and have the voters decide whether it ought to be changed and how.

THE CHAIR: A few things. I can certainly support that. I think that would help us retain the intent of the voters of Broward County. I

would like Ms. Cepero to read the language into the record so all Board members hear it. And I would also like you to give us an opinion on that recommendation, please, Mr. Meyers.

MS. CEPERO: I'll read this section almost in total. "The Broward County Ethics Commission shall present a Code of Ethics to the Broward County Commission for consideration no later than the first County Commission meeting in March 2010. The proposed Ethics Code. If the Broward County Commission fails to adopt the proposed Ethics Code as proposed by the Broward County Ethics Commission within 180 days of its receipt of the proposal, the proposed Ethics Code shall be presented to the electors of Broward County for consideration at the November 2010 general election. If approved by the electors of Broward County, the proposed Ethics Code shall become part of the Broward County Code of Ordinances."

MR. MEYERS: I don't know the answer to that. The problem that I'm having, frankly, is you're dealing with the Legislature and there is a whole body of law that talks about the Legislature's inability to essentially seed the future legislative power of that legislative body. My first thought would be that that restriction would run afoul of that legal principal, but I just don't know. As Mr. Scherer mentioned, this is one of those issues that if it is of great importance to this Commission, it certainly is worthy of research.

THE CHAIR: I would like to ask you to do that research and I would also like to see it in here, because barring some clear cut black and

white opinion from the Chair's prospective, I would like to see the language in there. There is other language in there that we agreed is likely to be challenged and I'm trying to carry out the wishes of the public. And I think if we don't provide a provision like that we will fall short of that task. With that being said, I will open the floor for discussion. I want to regroup. As I said last meeting, that was our plan, subject to change. I think we can see where this is going. Our plan is changing. I don't belief we're going to -- nor would I recommend that we try to finalize this today. Unfortunately "the warden has just extended our sentence a little longer."

MR. FINK: But we didn't do anything wrong.

MR. SCHERER: Bad behavior.

THE CHAIR: With that being said, I believe Ms. Rorapaugh -- Mr. Meyers.

MR. SHECHTER: If the County Commission adopts the Code can they subsequently amend it or revoke it?

MR. MEYERS: As a general rule, yes.

MR. SHECHTER: So that all of this work would have been for naught if they adopt it rather than let it go to the voter?

MR. MEYERS: Well, the interesting part of it is that even if it's enacted by the voters the way --

MR. SHECHTER: I understand that. But I'm talking about the County Commission -- we don't have to let it go to the voters, we'll adopt it, and at the next meeting we'll revoke it. Can they do that?

MR. SCHERER: Yes.

MR. FINK: It's a yes or a no.

MR. MEYERS: Well, sometime, unfortunately --

THE CHAIR: Hold on a second.

MR. SCHERER: We want a lawyer with only “one arm.” You can't say, "on the other hand."

MR. MEYERS: I think Mr. Scherer and the other attorneys would acknowledge that not all questions are susceptible to yes or no answers. As a general rule, yes. This is a little bit of a different creature because this is something that is being imposed by a Charter and therefore the voters, the electors have already spoken on this issue. I believe, if I had to opine right now -- and again no lawyer likes to give advice on crucial questions like this "on the fly," -- I believe the answer is yes. I would agree that the Board, if it determined that it was in the best interest of the citizens of Broward County, could modify or theoretically revoke it. I'm not convinced that even if it went to the voters, given the way the Charter question is phrased or the Charter mandate is phrased, that there would be a different answer to that question. That is why we're talking about mechanisms aside from just the political mechanisms.

MR. SHECHTER: This is why I raised the question, because if they can overturn a voter's -- if it went to the voters and they could overturn that, because it's an Ordinance, they can certainly overturn it if they approve it and then as a public relations thing it wouldn't work too well, but they could do it.

MR. BAKALAR: Yes. But I have a courthouse I could sell you.

THE CHAIR: Mr. Bakalar, hold on a second.

MS. RORAPAUGH: I sat through probably 95 percent of the Ethics Subcommittee meeting of the Charter Review Commission, and all the Charter Review Commission meetings. When they adopted this language they were basically being told by legal counsel that they could not say they were going to the Charter. I think if you go into the Minutes you would find that to be the fact. Basically the Charter -- they adopted language making an Ordinance because their legal counsel was saying -- was basically telling them, that's the way to do it. I don't know if that was correct. I'm not an attorney and I was not a member of the Charter Review Commission. There was a lot of concern that the intent of making it a yes or no vote, and a no vote sending it to the voters, was so the County Commissioners could not edit, audit, whatever, that piece of legislation report was passed by the voters. And I believe the intent of the Charter Review Commission was in the beginning to make it part of the County Charter, they were not given a legal way of doing that.

MR. FINK: Mr. Meyers, does the proposed amendment or suggested language that Bill is talking about, would that make this tamper-proof?

MR. MEYERS: Well, that's the point that would need to be researched; however, language like that is either going to have legal affect or it's not going to have legal affect. Assuming that it does, and assuming

that by in enacting legislation -- an Ordinance is legislation -- that legislative body can constrain, what's called, "the legislative prerogative," of the same Commission when it sits a month from now, six months from now, ten years for now, says, we know longer have control over the subject matter of this Ordinance, it could only be changed by referendum, you know, if that's what they're saying, I would think that it would have legal affect. I think it would. I just don't know the answer to that. You can also layer this. You can theoretically put it there at this point -- and maybe our research would validate this approach -- that it could only be changed, modified by referendum of the voters, if for whatever reason that doesn't have legal affect, then some sort of super majority would be required to modify it. It's possible that my research on this point would reveal another answer to this. This is really a foundational question, and I think it's worthy of additional research if you just don't want to take the approach of imposing it, imposing that term and then letting the courts ultimately decide whether it's valid or not.

MR. BAKALAR: I will wait to see what your research shows. If we can't make it impossible for Commissioners to overturn (inaudible) impossible. Again, my point to the courthouse. It was clear what the voters said, right or wrong. (Inaudible.) Again, the voters simply made their statement what the County Commission changing its mind (inaudible) I don't want to see that happen with the Ethics Code.

THE CHAIR: Thank you. I think we can agree. A sense a consensus here to have Mr. Meyers or his staff research this issue, come

back with what provisions we can apply, I like the layer recommendation. I want to recap with saying, it's been a long year and all of us have taken our responsibility here very serious, and had I known at the beginning that all of this work could easily be thrown out in a loophole -- I mean this is politics at its best right here in the "11th hour," and I just don't -- I want to make sure that what we set out to do in our charge according to the referendum, and the electors of Broward County's wishes come through -- and it certainly wasn't to craft something that had "no teeth," and it wasn't something to craft something that could then be amended, deleted, or thrown out all together. So whatever provisions can be made to ensure that if it's changed -- again, I don't want to close the process either because we might have missed something, something changes, and there needs to be something amended, but the voters then decide that as they decided that they wanted this Code.

MR. WOLFE: Well, it's not a real surprise to me. I sort of had this feeling all along; however that is why we have been engaged with the Legislation Delegation months ago to keep this pressure up with the state Bill, with the local Bill, and hopefully -- and that is not going to go away. Whatever we do here today, or if we have another meeting, that State Bill will still be in play so -- and I assume Mr. Scherer and everybody else in here is going to be -- with the sponsor of that legislation and doing everything that we can to make sure we codify everything and enforce what we do through the State Bill too, because certainly that is another layering opportunity that we have.

MR. FINK: Does Bill have to reread -- could you reread your statement that you wanted to add?

MR. SCHERER: With respect to that, yeah. We ought to state that this as part of the Ordinance that the Ordinance, if when passed, either by the Commission or by voters at a referendum, will remain intact and only be amended by a referendum of the voters as to any term in there, or in the alternative, if that avenue is – and this is cumbersome language – but if that avenue is illegal pursuant to the Severability Clause, we then want it changed only by super majority of the Commission. Something like that. Mr. Meyers can wordsmith that.

THE CHAIR: I think there's enough dialogue for you to get a sense of what we're trying to accomplish. In that research if you can provide some draft language for us to review that would allow us to accomplish what the majority of this Commission --

MR. FINK: By 9:00 o'clock.

MR. MEYERS: I can tell you now that the options that we have been discussing here which is essentially that layering approach, although I wouldn't put language like that in a preamble –

MR. SCHERER: Put it somewhere.

MR. MEYERS: Yeah. Put it in a substantive section. But those are – and I believe – and we can research this exhaustively – but I believe those are going to be the two best methods of doing it. The first method if it falls away because it's just not enforceable, then I believe the second method is enforceable. If it's the will of the Commission, I do have

one of my colleagues in this morning who is very, very good at these constitutional issues. Unless he's away at a meeting, I would be happy to walk for a moment and get him started, or you might be able to find a quick answer on it, or this is something that I can do after the meeting.

MR. SCHERER: I would like that.

THE CHAIR: We'll keep going. Mr. Collado.

(Mr. Meyers left the room.)

MR. COLLADO: Doesn't the County Charter go under review every five years.

THE CHAIR: Six years.

MR. COLLADO: Wouldn't this be part of that review -- (Inaudible)

THE CHAIR: No. This is an Ordinance. The Charter is the Charter.

MS. RORAPAUGH: The next – the Charter Review Commission can adopt this Ordinance as a Charter – a Charter change. But I think there is one good thing about this being an Ordinance particularly if we can enforce a super majority vote, it does allow for the flexibility of changing times. We addressed technology in this; we addressed a lot of different things in this, that frankly over the next 10, 20 years, will change.

MR. COLLADO: Just a question. What triggered this discussion of the suspicion that suddenly our work is going to be somehow changed, manipulated –

MR. SCHERER: My headache.

THE CHAIR: A member raised the issue before you came in.

MR. COLLADO: The reason I ask is because Commissioner after Commissioner after Commissioner has stated we will vote, we will support the work you have done.

THE CHAIR: I don't believe that is what the question is. They made that statement publically. I wouldn't expect them to turn it. The question is what if there is a change of mind any time after this is approved they -- we believe under current rules -- would have the ability to amend this and that is not what the intent of the voters was.

MR. FINK: Number two, these Commissioners will not be sitting there forever. So you don't know what the next set of Commissioners, as they rotate out, what their mindset is going to be, so if we're going to establish this Code we want it to be in perpetuity.

THE CHAIR: Any other members have any statements or questions as relates to this matter, if not we will – well, let me ask for clarification at this point. Now that "Plan A," is gone for now, do we want to continue the amendments or proposed amendments to this draft as we agreed upon last meeting without going round and round again?. So let's move forth with that. I will open the floor. Let's go ahead and take the Preamble as it was described. And again, make sure that the language is acceptable to all members before we move on. And again, please, we're

not reading this for the first time now and coming up with issues. There should be issues that you brought with the recommend language change.

MR. WOLFE: Are we going to go through this by consensus or are we going to vote by section and move on and be done with it?

THE CHAIR: Yes. That is the intent. Let's vote as we go and move on. And obviously it's subject to the opinion of the County Attorney and what other language comes in from that. Short of that, the agreement was you're coming with your recommended language, present it, and if it has majority support we'll move it forward, if not it will stay as it is. Anything on Page 1?

(Mr. Meyers entered the room.)

THE CHAIR: None being heard, Page 2?

MR. MEYERS: Mr. Chair, I apologize for not being here for Page 1. The County Attorney noticed that in the title we didn't refer to the Inspector General; so we just came up with some general language to also say, creating an office of Inspector General to investigate and provide for the enforcement of the Code of Ethics. And that would just be inserted into the Title.

MR. WOLFE: (Inaudible.) Title Three and Four?

MR. MEYERS: Yes. It would be after creating – let's see.

MR. WOLFE: Creating, Chapter 1, Article –

MR. MEYERS: Yes.

THE CHAIR: Is that clear for all members?

MR. FINK: No.

MR. MEYERS: The Title of an Ordinance should be appropriately descriptive. And when this title was initially written it was before the Inspector General portion of the Code was included. So all we want to do is in the Title itself, also say we're not just creating Chapter 1, the Code of Ethics, but also creating an Office of the Inspector General to essentially investigate and provide for the enforcement of the Code. It's just a technical requirement.

(Mr. Scherer left the room.)

MR. WOLFE: Thank you.

THE CHAIR: Anything else on Page 1? Statement of Policy runs into Page 2, prior to Standards of Conduct; any issues with Statement of Policy? I need a motion to –

MR. WOLFE: So moved.

MR. FINK: Second.

THE CHAIR: Moved by Mr. Wolfe, seconded by Mr. Fink. All in favor signify by saying aye. Anyone opposed? Same sign. Standards of Conduct (b), (1) a., and b., Acceptance of Gifts. Any recommended language? Mr. Meyers.

MR. MEYERS: Mr. Chair, there was a suggestion by Rebecca Keehler who was an Assistant County Attorney, sent something, and she had made a suggestion to insert – you can see it in Page 2, lines 15 through 17,it talks about who terms shall be defined, if they're defined in the Ordinance. She thought that what if there are inconsistencies in there. There's not statement to how that occurs, how that would be resolved. I

didn't see any inconsistencies; however, I would recommend inserting a sentence after the first sentence to say that in the even there are inconsistencies among the Code of Ordinances, the Administrative Code in Chapter 112, the following order shall apply, Chapter 112 would be first, then the Code of Ordinances, and then the Administrative Code.

THE CHAIR: Any members opposed to the recommendation of Mr. Meyers? I have some recommended language on Page 3, lines 3 and 4. It currently reads – let me read it how I would like to see it read.

MR. FINK: Read it as it is now and then where we would like to see a change, please.

(Mr. Scherer entered the room.)

THE CHAIR: "Upon adoption of this Code by either the Board of County Commissioners or by the electors of Broward County" – I apologize, I'm reading the wrong number. "Directly or indirectly by regardless of value from registered lobbyists or any principal or employer of a registered lobbyist or from vendors or contractors of Broward County." I would propose that is it says, "from registered lobbyists with the County, or any principal or employer with a registered lobbyist with the County or from vendors or contractors of Broward County.

MR. FINK: Can you read your suggestion?

THE CHAIR: I just read that. "Shall not accept gifts directly or indirectly regardless of value from registered lobbyist with the County, or

any principal employer of a registered lobbyists from the County, or from vendors or contractors of Broward County ."

MR. MEYERS: Mr. Chair, with the intent being if they're registered as lobbyists elsewhere, that is not what this is seeking to restrict?

THE CHAIR: Yeah. I'll respond, but I don't want to get into debating this issue as we agreed upon. That's what we're talking about, County Commissioners, and we're talking about lobbyists with the County. Is there support to move that recommendation forward?

MS. RORAPAUGH: Moved.

MR. FINK: Second.

THE CHAIR: Support by Ms. Rorapaugh, seconded by Mr. Wolfe. All in favor -- let's wait for that whole section – well, all in favor signify by saying aye. Any opposed? Same sign.

MR. FINK: Point of information. If somebody is going to, as you just did, insert alternative language, I think and justice to everybody here we should be able to debate the merits of your point, if somebody wants to question it, you should be able to have the opportunity to explain why you're doing it.

THE CHAIR: I agree. The agreement that we made was to say we're not going to go through this --

MR. FINK: That doesn't mean we can't alter the agreement.

MR. WOLFE: Keep it to a minimum.

MR. FINK: Keep it to a minimum, but you should be able to defend --

THE CHAIR: That's fine. So the Chair will move that. I agree, but there is nothing here I will propose based on our agreement that I'm willing to fight for the next three hours for, and that's that we wanted to stay away from.

MR. SCHERER: I have some stuff, so --

THE CHAIR: Any other recommended language on Page 3. I have another Page 3, Section (2) a., line 17, 18 and 19. County Commissioners shall not be employed as a lobbyist, or engage in lobbying activities before. Strike the word, "other," the County is not a municipality and within Broward County, and the insertion is that receive funding or approvals is authorized by the action of the Board of County Commissioners.

MR. FINK: Moved.

MR. SHECHTER: Second.

MR. WOLFE: Will that be the only insertion, and everything else will stay the same?

THE CHAIR: Yes, sir. Second by Commissioner Shechter. All in favor signify by saying, aye. Any opposed? Same sign. That's all I have. Moving onto Page 3.

MR. SCHERER: Hold on.
THE CHAIR: We just did.
MR. WOLFE: No. We voted on your change.
MR. FINK: What we just voted on was the insertion of that language.
MR. SCHERER: Knock off "other," and put the change on.

THE CHAIR: Now we're voting on the whole paragraph of Outside/Concurrent employment.

MS. RORAPAUGH: Can we read it now with the change? (Inaudible.)

THE CHAIR: On line 18, municipalities within Broward County, insertion, that receives funding or approvals is authorized by the action – or the Board of County Commissioners or before other local governmental entities within Broward County including taxing authorities, quasi judicial boards, appointed boards and commissions. Except on – okay?

MR. SCHERER: What are we doing that for?

MR. WOLFE: I don't have it either.

THE CHAIR: The discussion was based on a Commissioner not being allowed to lobby before those that they have influence over within the County. This identifies that they can't come – my district commissioner can't lobby before my city.

MR. SCHERER: Right. But why did we put that caveat that if they had to be subject to County funds --

THE CHAIR: Remember the discussion was, when we went through this, if you lobby before me I may be -- may have undo pressure to support your client before me because I come before you for funding.

MR. SCHERER: I understand that. What does your language do to make that --

THE CHAIR: It draws out that it's about the influence, the undue influence that they have over that district and my ability to then get projects approved at the County level.

MR. SCHERER: But if there is an absolute prohibition that they can't lobby anywhere in the County, why put a "monetary string," on it that would allow them to lobby some agency of the County or the city or

something, public entity that doesn't get direct money? I don't understand why you would do that.

THE CHAIR: Again, my understanding of the intent was for those Commissioners that have influence – their district commissioners that have influence over that municipality, or that taxing district or that, whatever that group is, not outside of that where they have no influence and they don't come before you or you don't come before them. That was the intent.

MR. SCHERER: That doesn't -- I don't get it. I think it's better the way it is. I think it says, they shall not lobby to any governmental entity in the County. Period.

MR. WOLFE: Right. I don't think it's the author's intent to allow any lobbying going on --

THE CHAIR: It's identifying what we were talking about.

MR. WOLFE: The intent is not to allow lobbying.

THE CHAIR: It still doesn't change it.

MR. SCHERER: Well, I think it does. I think it opens up a loophole that we don't need. I think it clearly says right now that they can't lobby in any governmental agency. Period. I like it. Can't do it without adding a loophole, I think. I would have to see it and think about it, but I don't see that that adds anything. I think that might detract from it. I can't think of a public entity that the County doesn't have some financial tie to, but there probably are some. I don't want the County Commissioners lobbying those if there are any out there. I can't think of it, but there could

be. I don't think they should do that in the County – that's what the intent is.

THE CHAIR: There has been a motion and a second and a vote.

MS. RORAPAUGH: And it passed.

MR. FINK: Move to reconsider.

THE CHAIR: There's a motion to reconsider by Mr. Fink.

MR. FINK: I know you don't want to spend forever.

THE CHAIR: Is there a second?

MR. BAKALAR: I'm seconding, if you can hear me.

MR. WOLFE: What is – since you proposed it, I didn't think it was necessary, but Mr. Scherer believes this might open a loophole to allow a County Commissioner to lobby in front of governmental entity that he or she can say, we're not supporting financially. Do you believe that ?

THE CHAIR: I don't, know. I went back to my notes from discussion and we talked about a district commissioner coming before their municipalities and saying, you know, I'm representing this client and we don't feel that it's in the best interest of the municipality, we say, no, and at some point we're coming back before the County inherently for support on a land use issue, on a grant or finance issue and "we're in a pickle."

MR. FINK: I think his question is – and correct me -- his question is how can a County Commissioner come in front of you and lobby for anything.

THE CHAIR: This is – again, unless I misunderstood the intent of the original, this is so they can't come before those --

MR. WOLFE: I think it says it anyway. I think the objection by Mr. Scherer and others is that that might open up the outside concurrent employment to allow an individual to say, look, we're not -- I'm not doing anything with funding with the government agency, I can lobby it. I mean I think that's the concern.

THE CHAIR: Was that not the intent if they didn't –

MR. WOLFE: No. Absolutely not. I want it banned. I mean, we're banning it. Period. I don't want a County Commissioner doing private business from any governmental agency in Broward County. Period. And that is what the voters want us to do. And maybe I was wrong. I didn't think that was opening up. If it opens up, let's revisit it.

MR. SCHERER: Right. I agree with you. I think that was our intent.

THE CHAIR: Any other --

MR. BAKALAR: I agree also. I think we're safer with the absolute ban language. I don't think we should mess with that. Stick with the absolute ban. Any other language could open the loophole.

MR. SHECHTER: I think that was our intent in the very beginning.

MR. WOLFE: I apologize for not being on top of it.

MS. RORAPAUGH: Chair, withdraw, maybe?

THE CHAIR: Withdraw.

MS. RORAPAUGH: The question I have on this section -- and I think we discussed it; it ended up it never came to fruition. This -- would this also disallow a County Commissioner or office holder from being able to say, go in front of the governing boards representing a client from the zoning boards?

MR. FINK: Yes. A zoning board is a quasi judicial --

MS. RORAPAUGH: But I'm not talking about a registered lobbyist before the zoning board. I'm talking about what happens much more frequently, which is I'm the attorney representing a client in front of the zoning Board.

MR. WOLFE: I would caution us to -- a lot of these provisions can be challenged in court eventually. And that is going to be a decision that is probably decided outside of the realm of this office. I think your comments are probably well taken, but I think we put language in the quasi judicial boards to make the intent of it , and there is also -- there is a couple of things in here we agreed to put in here with immediate family members, spouses, domestic partners. I'll tell you, I know it's going to be challenged in court.

MS. RORAPAUGH: I know who's going to bring the challenge. I think folks, let's move on with this because this is only one part of the puzzle. When the State bills the – there's a bunch of other stuff –

THE CHAIR: I will withdraw my motion.

MR. MEYERS: Mr. Chair, I'm not the greatest parliamentary in the world, but I think it passed, then there was a motion to

reconsider, that was seconded, I think in abundance of caution if there could be a vote on the motion, reconsideration.

THE CHAIR: Well, the motion was to reconsider the issue but wouldn't the motion be to withdraw?

MR. MEYERS: Yes.

THE CHAIR: Would you amend your motion, Mr. Fink, to withdraw?

MR. FINK: The motion for to reconsideration?

THE CHAIR: No. To withdraw the recommended language.

MR. FINK: Yes. I will withdraw.

THE CHAIR: Mr. Fink has amended his motion to withdraw the recommended language. Who seconded it?

MR. BAKALAR: I did, and I'll second again.

THE CHAIR: All in favor signify by saying, aye. All opposed? Same sign. Was there a – in that discussion on this issue, based on Ms. Rorapaugh's question I thought it wasn't the intent to stop lawyers from representing clients.

MS. RORAPAUGH: Chairman, and that's not my intention either. I just know right now we're in the process -- this may not be the right place. I think the County Commission may be the more appropriate place. We still have enormous problems getting lobbyists to register as lobbyists and that is what they are doing and they sometimes hide under the cloak of their – (inaudible) and this may not be the appropriate place to take it up. I'm not saying that County Commissioners can not practice law,

or that they should not be allowed to practice law. And their expertise is governmental law in some cases. But if they are engaged in lobbying activities, that they do not use their bar membership as a reason for not registering.

MR. FINK: I believe the public is not going to look kindly upon us allowing an elected official who is an attorney, to then go ahead and represent that client and in fact is lobbying as that elected official. They're not going to be able to separate the facts that (inaudible) and elected officials. They're going to see they're an elected official. And our intention, I thought, was to prohibit an elected official from lobbying. So they can make a choice, either they're an elected (inaudible) and they can choose, but we're not about to let that get blurred by having somebody say, well, I happen to be practicing under my bar card, and therefore I'm no longer an elected official.

MR. WOLFE: We're opening up other issues again. We need to –

MR. SCHERER: I don't want to raise a "red flag," before the (inaudible) of the bar and challenging this on employment, right to work issues. I think there are precious few times when a lawyer, County Commissioner gets involved for a client other than lobbying. I don't think the County Commissioners that are lawyers generally in my experience were real practicing lawyers, they were lobbyists, not lawyers. And so I think that this will prohibit and protect without having us having an employment issue with a lawyer that from time to time -- a real lawyer that

might get elected to the County Commission, that from time to time practices real law, not lobbying. I mean, representing somebody on a land use issue, that is a major legal issue, not just lobbying. So I think we really protected it here without having that challenge that the bar will give us to knock this thing out. I would urge us to use a little bit of restraint here. We don't want to restrain their employment, of any of these Commissioners, whether a lawyer or not a lawyer, at the same time we want to prevent them from influence-peddling with the local governments that really have, they have involvement with empower. Right? I think we need to tread a little carefully here.

MR. WOLFE: I agree.

THE CHAIR: I must be slow, because I think it reads to me that that is exactly what we're doing. I don't know how you define whether that lawyer is representing that client as a lawyer or as a lobbyist, and I just ---

MR. SCHERER: I think this does it, Neal. That's what I'm telling you. I don't think we should change this and try to add more in there to say including lawyers before local authorities, and that kind of thing, and or in any other kind of employment, unless we just want to say, County Commissioners are full-time County Commissioners. Period. Can't work at all. But we don't want to do that.

MS. RORAPAUGH: That would take a Charter change.

MR. SHECHTER: How would this affect a County Commissioner who is an attorney, part of a firm; would his firm be allowed to lobby --

MR. SCHERER: To lobby or to handle -- or to handle legal matters before local government?

MR. SHECHTER: Either one. I mean, you have that real situation existing, yes? So --

MR. SCHERER: Yes.

MR. SHECHTER: Would this bar defer from representing a client before the Commission?

MR. SCHERER: If it does we can expect a big time challenge. And I'm not handling it for nothing.

MR. WOLFE: We had this debate before on this issue. That is not the intent.

MR. SHECHTER: I don't think. (Inaudible.)

MR. WOLFE: It's not the intent. To tell that individual not to do it. It's not his law firm, it's not his colleagues.

THE CHAIR: Is there a motion on the floor?

MR. COLLADO: When we were discussing many issues to -- something like this, we said that the advise of the I.G. or the attorney would be available to see if this is appropriate or inappropriate, and I think it would be prudent or pertinent for that Commissioner to say, this is what we're doing, this is what my company is doing, am I'm doing anything inappropriate as per the language that we have here. And to the extent

that they don't, and they go ahead and do something that then turns out to be inappropriate, certainly something that could have been prevented by seeking legal advice.

MR. WOLFE: Motion, Mr. Chair.

THE CHAIR: Is your motion to Section 2, Outside Current Employment?

MR. WOLFE: Yes. For paragraph a.

THE CHAIR: A and b.

MR. WOLFE: A and b.? Counsel, last night when I was going over this for a couple of hours, there was another suggestion from Rebecca Keehler, which I –

THE CHAIR: Hold on. You just made a motion there.

MR. WOLFE: My motion was to do paragraph A.

THE CHAIR: Is there a second to approve 2 a?

MS. RORAPAUGH: (Inaudible) Second.

THE CHAIR: Second by Ms. Rorapaugh. All in favor signify by saying, aye. Any opposed, same sign.

MR. WOLFE: Amendment, Mr. Chair.

THE CHAIR: Yeah. Can we hold a second. I want to get the procedure down. Either let's debate this thing and blow it out or let's -- everybody has a different position here and as the Chair I'm struggling between how long do I let this debate go, how not. We agreed that we would limit the debate – we had not debate -- present the language and vote it up or down. Then we said, well, we want some minimal debate, and now we're going into long term debate. What I would like to do is ask the

members to reconsider what we agreed and that we present language and vote it up or down. Is there majority support to do that?

MR.WOLFE: Yes.

MR. FINK: No.

THE CHAIR: All in favor signify by saying, aye. Any opposed?

MR. SCHERER: Yes, I do.

MR. FINK: Nay.

MR. SCHERER: Point of order. I don't think that is a proper vote to stifle our debate on these issues. If the "train is going to wreck," I'm going to tell you that it's gong to wreck. And that is my opinion. I think you're --

THE CHAIR: I hear you, Mr. Scherer. The Chair will rule that we will debate all issues as much as any member wants to debate the issue. I'm not going to pick and choose who can debate and who can't. So we will debate all issues. Moving on to Section (2) b .

MR. WOLFE: Amendment, Mr. Chair. Consistent with – I hope the other members read that email from Rebecca Keehler, which was very excellent. I believe she recommended that we conform a couple of paragraphs in this document, which she referenced, which the first one would be paragraph b, down at the bottom of the paragraph she would like us to and recommended that we have consistent language in those various paragraphs -- and I'll probably blow out what I was going say -- but I would recommend that we -- line 8, that we can going down to in searchable

database, both online and hard copy on a -- from provided by the County Attorney's Office and filed in a matter designated by the County Administrator. Would that be agreeable or would that be inconsistent?

MR. MEYERS: If I may just ask you, what I was going to do is, Ms. Keehler pointed out a few places where it didn't exist – just to instruct us to conform the language so that the database throughout is searchable both online and through hard copy.

MR. WOLFE: That's what I'm recommending too.

MR. SCHERER: Who is – I don't know who Rebecca Keehler is. I thank her for her input. I think this is the kind of input we need to be giving to the County Attorney to take a look at this and incorporate that into this final draft, which is what we talked about first thing this morning, and not have to go through this line by line, because it looks to me like it's probably good stuff, but it's nitpicking. Let's get to the substance.

THE CHAIR: Have you done that Mr. Meyers?

MR. WOLFE: I think it's a good point.

MR. MEYERS: Well, apparently it has not been done sufficiently, because there are some language and consistencies. Nothing --

THE CHAIR: I meant did you not already consider Ms. Keeher's language to –

MR. MEYERS: Oh, yes. Everything that had been submitted to us by someone we certainly considered and I know there is a

motion there. I just ask that the motion be clarified just to provide that in every place that comes up, instead of paragraph by paragraph.

MR. WOLFE: Motion is to direct the County Attorney's Office to draft consistent language throughout the document to –

MR. MEYERS: Search-ability of disclosure of files –-

THE CHAIR: Motion by Mr. Wolfe, seconded by Mr. Fink. Any discussion? All in favor signify by saying, aye. All opposed, same sign.

MR. MEYERS: I don't want to miss anything, if you have questions for me I just wanted to find out what the –

THE CHAIR: Okay. If any members have questions for Mr. Meyers, hold them until he returns.

(Mr. Meyers left the room.)

THE CHAIR: Section C.

MR. FINK: I move Section C.

MR. WOLFE: Second.

THE CHAIR: Moved by Mr. Fink, second by Mr. Wolfe. Any discussion? None being heard, all in favor of Section C signify by saying, aye. Any opposed? Same sign. Moving on to (3) a. Lobbyists.

MR. FINK: Are we doing it by a, b, c, or the whole section?

THE CHAIR: By section as we just did. Any recommended language. (3) a.?

MR. FINK: Move A as written.

THE CHAIR: Moved by Mr. Fink, second by Commissioner Shechter. Any discussion? All in favor signify by saying, aye. Any opposed? Same sign. Section b.

MR. BAKALAR: Moving b.

THE CHAIR: Motion to move b. by Mr. Bakalar.

MR. FINK: Second.

THE CHAIR: Motion to move b. by Mr. Bakalar, seconded by Mr. Fink. Any discussion? None being heard, all in favor of adopting section b. signify by saying, aye. Any opposed? Same sign. For the record that was to include b., 1 and 2. Section C any comments?

MR. SCHERER: Hold on a minute.

THE CHAIR: That would include C- 1, 2 and 3.

MR. SCHERER: I want to get the County Attorney back here. I got –

THE CHAIR: For what section, Mr. Scherer?

MR. SCHERER: That's why I want to get him back here, to see where I want to put this.

THE CHAIR: Can we hold on Section C until Mr. Meyers comes back in the room, and move –

MR. FINK: Well, I would like to insert a d., and I passed out to everybody language for d. (Inaudible.)

MR. SCHERER: (Inaudible.)

THE CHAIR: Mr. Fink, if you will hold. Mr. Scherer had the floor.

MR. SCHERER: I want to change – I want to add d., also, Mr. Fink, and it's a little more extensive than yours and I asked -- did I give you the copy to make?

MS. CEPERO: Yes. They're all here.

(Mr. Meyers entered the room.)

MR. SCHERER: I would ask if you would pass out that copy and pardon my scribbles at the bottom -- and I need it back.

THE CHAIR: The Chair will give members some time to review this document, and Mr. Fink if you will --

MR. WOLFE: Has Mr. Meyers looked at it yet?

MS. CEPERO: Nobody has seen it yet.

THE CHAIR: Mr. Fink, if you will, once you had an opportunity to review it, if would state whether this would encompass yours or whether we need to consider yours separately, I would appreciate that. And Mr. Scherer, do you have a question for Mr. Meyers now that he is back in the room.

MR. SCHERER: Let me give him the proposal. He hasn't got a copy yet. Mr. Meyers has seen this language, he hasn't seen my lousy printing that's attached to it. I can interpret it if you need it.

MR. MEYERS: Please do so.

MR. SCHERER: This prohibition extends to any campaign staff member who receives compensation, it says, any compensation, direct or indirect, from the campaign or its vendors and should be considered as activities included in this provision. That's pretty wordy. I

think it needs to be wordsmithed by you folks. But that's the idea, to add that. Because it's my belief that some of the campaign managers, even if they're official or unofficial get re-numeration back from the printers and the lobbyists and all sorts of things that never even appear. As so I would like to include that as a prohibition for – that prohibits a commissioner from voting when his or her campaign manager appears before them representing a vendor. And that is what this tries to do. I think this is also probably a little wordy and probably could be wordsmithed and crafted a little better, but that's the intent of what I thought we wanted to accomplish here, that we did not accomplish the other day. I felt I had let down without vigorously debating this issue as I should have. And it passed.

MR. FINK: When I brought this up two meetings ago and it got voted down and then Bill changed his mind (inaudible) I think Bill is right when he says this is a little wordy, and I'm sure that there is not a way to what I proposed, which is any agent of the campaign. So that keeps and simplifies that, because that would cover any agent, but I agree with you about the part of re-numeration can come from other sources. I don't want to use the word, "kick-backs," but re-numeration from printers --

MR. SCHERER: Well, they're finder's fees, they're shared compensation, they're not called, "kick-backs," but they're called anything else. The issue is we don't want what is happening now to have the campaign managers not have a title and do exactly the same thing, and then represent lobbyists for vendors. That is what we don't want to happen.

MR. FINK: I think any agent --

MR. SCHERER: Well, and we're really even stopping them from representing lobbyists -- or vendors, we're only saying that the Commissioners can't vote.

MR. FINK: I – no where in here --

MR. WOLFE: Do we have a motion for this first? We're debating stuff without a motion.

MR. SCHERER: Sorry.

THE CHAIR: No, we don't. You're right, Mr. Wolfe.

MR. WOLFE: Point of order. Let's proceed with orderly debate, because I do want to talk about this a little.

THE CHAIR: Is there a motion on the floor?

MR. SCHERER: I move that we accept this proposal as subparagraph d., in this section.

THE CHAIR: Motion by Mr. Scherer to accept this proposal as subparagraph b. Is there a second?

MR. SHECHTER: Second.

THE CHAIR: Second by Commissioner Shechter. The floor is open for discussion. Any members?

MR. BAKALAR: Can some one read that to me? I don't have the advantage of having it in front of me.

MR. WOLFE: Do you have you fax machine on?

MR. SCHERER: Mr. Meyers has a great pellet voice. Why don't you let him read it?

THE CHAIR: Mr. Bakalar, thank you. Hold on one second. Ms. Cepero just brought an issue. We're looking at submitting a d., and we have not resolved C-1, 2 and 3. So if you're looking at inserting this as 4 under C then we can hear it at this point if not we need to resolve C.

MR. SCHERER: I don't care where we put it. We need to put it in the most effective place. I just picked d., because that is where Ken said to put it. I could be number --

MR. FINK: It should be –

MR. WOLFE: Order, Mr. Chair. Let the Chair run the meeting. I would suggest to the Chair that we vote on the previous paragraphs and then when this needs to be inserted we'll follow.

THE CHAIR: Determine where it needs to be. Mr. Meyers, do you have a recommendation on where that language would be inserted appropriately?

MR. MEYERS: You're talking about proposal language?

THE CHAIR: Yes.

MR. MEYERS: I don't. I see no reason why – I'm sorry. I don't.

THE CHAIR: Okay. We're going to take Section C- 1, 2 and 3.

MR. FINK: I moved it.

MR. WOLFE: Second.

THE CHAIR: Any discussion? None being heard, all in favor of adopting Section C- 1, 2, 3, signify by saying, aye. Any opposed?

Same sign. There has been a motion for the proposal to be inserted somewhere, whether it's a d., or a 4, or whatever it is. Moved by Mr. Scherer, second by Mr. Fink. Discussion?

MS. RORAPAUGH: I understand where this is coming from and this is kind of my area of expertise, because I am a designated agent of campaigns from time to time, but I do not lobby. This is my one fear with a proposal like this, and I can tell you right now if this passes, it makes me a very wealthy person, because most people that do what I do for a living, will no longer be able to (inaudible) that's how they -- they do campaigns for very low (inaudible) re-numeration, they make their money lobbying. I will say, if this passes what my fear is, is that rather than having full transparency, we will simply drive this type of activity further "underground." I understand the need for transparency in saying to your fellow Commissioners, oh, this registered lobbyist did such and such for my campaign, but I think if you re-cuse them -– you know when they say, when you squeeze a balloon the water – air goes someplace else, this will create people trying to find a "new envelope to push."

MR. SCHERER: You just made my case. If they're making money lobbying and not charging appropriately for the campaign, they're inviting influence-peddling, and it's my belief that if a Commissioner circumvents this by some artifice or trick and the Inspector General catches it, that would be a very, very, serious offense, and I question whether they would do that given the penalties that are here, because it would be a misdemeanor and probably the "death sentence." So I'm thinking that

would not happen. And I appreciate what you just said, because it's really true. They run the campaign so they can represent people before this and influence-peddle in the worst way. And that is with -- we amended the Procurement Code and that is the kind of thing we're trying to keep out and adding transparency. So Robin, I would have said, thank you very much, no for further questions, if you were on the witness stand.

MS. RORAPAUGH: Again, my question is -- I think there needs to be transparency. When I first moved to Broward County and starting running campaigns, and whatnot, I could never figure out who was running the other side, because they weren't on campaign reports. They were not registered in any way, shape or form. I would see people at meetings and wonder, how can they do this.

MR. SCHERER: But you ultimately knew who did it, don't you?

MS. RORAPAUGH: Yeah. I figured it out.

MR. SCHERER: Well, so will the Inspector General.

MS. RORAPAUGH: Yes. But here's the question. Do you want it to be recusal or do you want it to be full acknowledgement? Do you want them to state that they have this? Do you want to treat it as a full conflict for recusal, or do you want it for transparency? And that's just my question.

MR. SCHERER: I would like to have an absolute prohibition rather than just recusal, but since I didn't think that I had the majority of the votes here I tried to make it more palatable, but if the

majority of this Board would like to make an absolute prohibition I would vote for it, but if we let this area go I will be real disappointed in us and myself for not being a better advocate.

MR. FINK: I accept your apology.

MR. SCHERER: I did apologize to you.

MR. WOLFE: Order, Mr. Chair.

THE CHAIR: Mr. Wolfe has the floor. Please folks.

MR. WOLFE: Colleagues, let's try to follow the Chair here. I used to do campaigns for a living in California before I moved out here. I mean, probably 20 years plus. There is ethical considerations within that profession about people that cross the line between public affairs consulting, campaign management, lobbying. Most cases it's ill-advised to do both; however, that being said, we brought up this issue a couple of times throughout the last year, and with all due respect to everybody, it seems like we're veering down to some – I mean I don't want to be "flipid" today, but is this the "Judy Stern Amendment," or is this the "Mark Ketchen Amendment," or are we picking out specific cases to discuss? I do believe people have the right for political participation, and I think we're infringing on public speech and political participation and things like this. The points being made in this regard are well taken; however, I think we're just in a dangerous ground here, opening this stuff up because we're just going to drive this stuff more "underground." I don't now how you regulate freedom of speech and political activity, that's part and parcel of what goes on, but I'm just questioning why we're coming back to this issue after we debated it

two or three times and it has been voted down two or three times. That's not the purpose for this final review. I think it's all well intention. I respect everybody's view. I know where you're coming from. I just think we're on a "slippery slope" here.

THE CHAIR: Mr. Shechter, Mr. Fink.

MR. SHECHTER: I thought what would be the point of having a Commissioner disclose transparency and then vote?

MS. RORAPAUGH: I understand what you are saying.

MR. SHECHTER: That followed my campaign manager, he done a great job and he charged me 35 cents and now I'm going to vote yes. There doesn't seem to be a connection.

MR. FINK: (Inaudible.) You have supported on multiple many occasions. Let them make the decision; either they want to be a lobbyist or they want to run the campaign. That is their decision to make. But if they're going to be a lobbyist then they cannot come in front of the Commission and have that Commissioner vote on that matter. And I'm in favor of recusal, not disclosure, because it's not -- as Carl just said, it's not a function of hey, okay, so you told me he was my campaign manager and I'm going to vote on the issue anyway. That is exactly what we're trying to prohibit.

THE CHAIR: I have a comment. I agree with -- I think I understand the intent of the language, although I agree whole-heartedly with Mr. Wolfe, that we're right back where we agreed as a Commission we weren't going to go. These are issues that were brought up, debated, and defeated, and now we're getting another shot at it. So if that is the

direction, great, let's have another shot at it. Consistently I have stated that I'm not going to support issues that create -- that are unmanageable and are complicated, and I think we're starting to broaden our definition again. When this first came up, legal opined that we're outside of our scope. We're trying to legislate the behavior for lobbyists and campaign managers. So you throw it back on the elected official, and you say either there needs to be transparency or there needs to be recusal or there needs to be absolute prohibition. And at some point we create an environment where, the elected official, who's elected by the electors, cannot fairly represent them. There is law that says you can only re-cuse yourself a certain percentage of the time, and we, throughout this document, are creating areas where they have to re-cuse themselves, and re-cuse themselves, and re-cuse themselves, and before you know it, they can't effectively represent their electors. So I think the transparency is what we have been consistent on throughout. And penalties, if you make a mistake, and you're not transparent, and you don't disclose, you're going to pay, and some of this stuff you're going to pay significantly, up to and including criminal prosecution. But I think it comes down for me to -- you know, not all disclosures are a conflict of interest. Many times we disclose and counsel says, you're good to go. So for that reason I'm comfortable with the language in there in the current proposal. I think it accomplishes what we debated many hours on and I can't support complicating it any further.

MR. SCHERER: I want to be heard.
THE CHAIR: Mr. Collado and then Mr. Scherer.

MR. COLLADO: My concern if reading the language is when it defines seeing a little position, this would unintentionally affect good campaign volunteers. And I agree with Robin, that my purpose of serving on this Board is the intent of bringing clarity and transparency to the process by which the Commissioners (inaudible) and I think this would have unintended consequences on simple people that rally around democracy to help someone get elected by having such a broad definition. I do agree with the Chair that the language that is already in the provision will suffice.

MR. SCHERER: With all due respect, Mr. Wolfe, we should probably call this the "Scott Cowan or Joe Eggelletion Amendment," rather than naming any other individual. I'd be happy to name it after them. You know, I don't know whether you folks have been lobbied on this or not by your Commissioners, I have not been, but I'm sensing that this is real important. And we let down, by not putting it in, because it's a "where they make their money lobbying the Commission for vendors," that's quoting campaign -- a very well known and well regarded campaign manager that is on this Commission, Ms. Rorapaugh. And the provision that we have put in there is a "toothless tiger," that won't stop influence-peddling. And if we are interested in having a majority – a unanimous vote ultimately, I think we need to seriously consider this. Mr. Collado, if you worry that we are unintended consequences to have some campaign worker excluded, then we need to write it better, but the sense of this ought to be that the people who are running the campaigns for these Commissioners ought not to be

appearing before the Commissioners on behalf of a vendor on a big issue or a little issue or any issue. We can't prohibit the lobbyists, but we can prohibit the Commissioners, and that is what this tries to do. And I think we let down on that, and I will tell you that I will not vote for any change, and maybe it won't matter, but I will vote no, to any change -- to this Ordinance if that provision, or a provision similar to that worded better is not in our ultimate draft. And I think that when the public understands what we have done here, they're going to believe we left a great big loophole. And I urge all of you to look into your heart there, and ignore the lobbying that you all have gotten on it, because I know you have, because I have, and do what is right.

MR. WOLFE: Point of personal privilege.
THE CHAIR: Let me recognize Mr. Fink. He was waiting.
MR. FINK: Go ahead.
THE CHAIR: Mr. Wolfe.

MR. WOLFE: I have not been lobbied at all by any Commissioner on this subject matter at all. Last – I had a conversation, brief conversation with the mayor this week. He told me to do what's right. He is going to support whatever we do. That was about the extent of the conversation, and that has been the extent of it. I just think this is a well meaning attempt to legislate the behavior of others, which is outside the scope and the realm of what our duties are. We're not here to create "Alice and Wonderland," and a political process is such where if I'm a lobbyist or a citizen I have the right to campaign for contribute, for advocate for, whatever I believe is right as a citizen of the United States and a resident of

Broward County. And I just think it's dangerous when we starting going down this path. I know it is well intended by Mr. Scherer and Mr. Fink, but also --

MR. SCHERER: What is the danger? I don't see it.

MR. WOLFE: I think what we're doing here with our Ordinance is monumental. We're adding transparency, we're prohibiting gifts, we're restricting lobbying activities to County Commissioners, we're adding transparency and doing a lot of things. This I think reaches out, and we're on a "slippery slope." I will not support this amendment; however, and I would, as I said earlier on, I have had opinions on many other subjects in this Ordinance that I lost on, but I'm not going to sit there and come back to them again and again, and whine and complain that I didn't get my way. I'm moving this document forward. So I would urge members to keep focused on what our mission is here.

THE CHAIR: Mr. Fink.

MR. FINK: Mr. Wolfe, that was not a point of personal privilege, but we won't --

MR. WOLFE: I think it is.

(Ms. Coward entered the room.)

MR. FINK: Number two, you stipulated in what you just said, that we're attempting to regulate the work of others, and that's not true. What we're saying here is we're trying to regulate the Commissioners. By asking them to re-cuse themselves, if any agent of their campaign comes before them on a matter that's before the

Commission is a lobbyist. In previous votes, as I said before, you agreed, this was your philosophy and your words, they have to make a decision, one or the other. Do they want to be a lobbyist or do they want to be a campaign manager.

MR. WOLFE: I never said that.

MR. FINK: Mr. Collado, Washington, give me your idea of an unintended consequence if this were to pass, that we prohibited Commissioners from voting on a matter coming before them when a member of their campaign is a lobbyist. What is the unintended consequence that you foresee?

THE CHAIR: Mr. Collado.

MR. COLLADO: If you look at a definition of (inaudible) any initiative by any community, by (inaudible) toward helping the person for whom I have a lot of respect (inaudible) and represent well, (inaudible) a conflict of interest whereby I can then have that person not listen to me if I ever go to the Commission and that would then basically infringe on my rights as the citizen to help a person get elected because if I then go to the front of the Commission, I would be described or defined here as someone who has ulterior interest for having that person (inaudible) Do you understand what I'm saying?

MR. FINK: No. Actually, I didn't to be honest.

MR. COLLADO: (Inaudible) If I participate at all in helping a Commissioner get elected by getting votes, by calling, whatever, that would preclude me from --

THE CHAIR: Let's let Mr. Collado address the question and then the floor is going to go to Commissioner Shechter --

MR. COLLADO: -- I think (inaudible) from then going to the Commission and I don't -- I agree with Mr. Wolfe that that would limit my rights as an American citizen to help someone get elected.

MR. FINK: No.

THE CHAIR: Mr. Fink, I'm not going to let you cross examine him. He answered your question. You may not agree. If you want to be recognized I will recognize you again. Commissioner Shechter.

MR. SHECHTER: Thank you. First thing, Mr. Wolfe, we're not trying to regulate the conduct of others. We're trying to regulate the conduct of the County Commission. Secondly, I wasn't lobbied by anybody either, but the point I want to make is that it was said a couple of times now that we would just "drive this further underground," well, if that happens, that is what we have an Inspector General for. That is why we're going to do that job so that if something gets driven "underground," the Inspector General will uncover it on its own volition. Nobody is going to have to make a complaint. And we're trying to avoid it being "driven underground." We're trying to get transparency, and just don't see the reason not to include this because it's a loophole – it's not a loophole, it's a "highway."

MR. WOLFE: Mr. Chair, I move to call the question.

THE CHAIR: I think we debated this issue enough. There's a motion to insert this language as a new section; whether it be 4 or d.

MR. MEYERS: It would be d. And If your going to vote on this, I would just ask for clarification from Mr. Scherer as to the last sentence. I mean, is there a discretion to draft there, or –

MR. SCHERER: Yeah. I had wanted there to be discretion for your offices, capable offices to redraft this whole thing within the intent of this.

MR. MEYERS: Okay.

MR. WOLFE: I think we should vote –

MR. SCHERER: Excuse me?

MR. WOLFE: I think we should vote the thing up or down and then you can.

THE CHAIR: And then he can --

MR. SCHERER: I wanted him to understand that, I wanted everybody to understand that this language is conceptual, and should be drafted so as not to cause the problems that Mr. Collado has raised that there is some unintended consequences. This could be drafted better.

THE CHAIR: Do you want to withdraw your motion?

MR. SCHERER: No.

MR. WOLFE: No. I think we just decided the issue –

THE CHAIR: I'm good with that. The issue we're voting on is concept of changing the language that is there. Is there support to do so, and insert this language as drafted by the County Attorney? Commissioner Brunson.

COMMISSIONER BRUNSON: I would feel very uncomfortable voting on it, saying yes, without me actually seeing the language. So I'm not sure what – are we voting on to include it or are we voting for them to change it and bring it back us to look at?

MR. SCHERER: That would be better.

MR. WOLFE: It's my proposal that we vote on the issue, whether accept this or not to be redrafted, because we discussed this issue --

THE CHAIR: That's how I'm going to move the question --

MR. SCHERER: Point of order. If Commissioner Brunson needs to have it drafted to make up her mind, and she may be pivotal, I suggest that we do that, because we're all counting heads here a little bit, and it's going to be a close vote, seems to me. And if Commissioner Brunson needs to have it clarified in writing, which it's going to be, I don't blame her, I do too.

MR. WOLFE: Point of order -- is actually the issue is very clear of what the intent is. I don't think the wordsmithing of the document is not going to change anything --

MR. SCHERER: (Inaudible) I understand.

MR. WOLFE: (Inaudible.)

MR. SCHERER: (Inaudible.)

THE CHAIR: Order please. There is a motion on the floor to insert this language as it is, or as amended into the document. If you would like to withdraw the motion, we can consider something else, if not we're going to call the motion on that motion.

MR. FINK: I didn't hear it. There's a motion on the floor to what?

THE CHAIR: To accept this language into the document as is or as amended. We just debated. I think everybody understands the intent.

MR. FINK: I will second that.

MR. SCHERER: Well, Commissioner Brunson doesn't --

MR. WOLFE: Call the question.

THE CHAIR: It already has been seconded.

MR. SCHERER: She's speaking –

THE CHAIR: Excuse me. I haven't recognized her, Mr. Scherer. And you're not the Chair, when I'm done, I will.

MR. SCHERER: Well, you know, -- don't tell me –

THE CHAIR: Don't tell me how to run the meeting.

MR. SCHERER: Don't tell me –

THE CHAIR: We already tried that once. Recall me again if you like. Until then, you're not recognized. Order.

MR. SCHERER: If I had the votes I would.

THE CHAIR: You don't, so you're not recognized. Order.

MR. SCHERER: Okay. Let's move it along, Commissioner.

THE CHAIR: The motion is, and it has been seconded, to insert this language into the existing document and change that language either as is or as amended. We debated. I'm calling the question. All in favor signify by saying, aye. Any opposed? Same sign.

THE REPORTER: Excuse me. Can we do a roll call?

MS. RORAPAUGH: Do a roll call vote.

MR. WOLFE: You guys are voting the wrong way.

MR. SCHERER: I'm asking for a roll call vote.

THE CHAIR: We will do a roll call vote. All in favor of accepting this amendment as proposed or amended into the document and changing the existing language signify by saying, yah. Roll call, please.

(Roll call was taken by the real-time reporter.)

THE CHAIR: Motion fails. Moving onto Section (4) Honest Services. Any members have any comments?

MR. WOLFE: Move adoption.

THE CHAIR: Moved by Mr. Wolfe. Is there a second? Second by Ms. Coward. Any comments? No discussion being heard, all in favor of adopting Section 4 signify by saying, aye. Any opposed? Same sign. Section (5) Solicitation and Receipt of Contributions, a., 1 through 4, b., 1 through 5, and c.

MS. COWARD: Mr. Chair, are we going to call the question on all a, b and c together, or a, b and c separately?

THE CHAIR: Together. And will give the members some time to look. Ms. Rorapaupgh.

MS. RORAPAUGH: I would like to ask that the County Attorney's Office insert in each of these provisions, after we say -- as an example, line -- Section 2, line 15, and the name of any individual or business, rather that should read, the name of any individual or entity that may have promoted the solicitation. Wherever we mention individual or

business we should replace business with entity. That would then include –

THE CHAIR: I'm sorry, Ms. Rorapaugh. Would you give me a page number, please?

MS. RORAPAUGH: Page 7.

THE CHAIR: Line 15?

MS. RORAPAUGH: Line 14, and then on Page 8, line 16. I offer that language change because I believe "entity," would pull in federal tax, cce's, 527's, businesses, corporations. All the various thing that can give that are – (Inaudible.)

MR. WOLFE: Good suggestion.

THE CHAIR: Mr. Scherer, did that clarify --

MR. SCHERER: Yeah. I have a change to paragraph 1, a.,1, that I think would obviate the need for that change. I would propose that on line 4 we should strike, "is," and put "not." And then put a period after "permissible," and strike the rest of the sentence. So that it should read, "charitable contribution fundraising. The solicitation of funds by a County Commissioner for a non-profit charitable organization as defined under the Internal Revenue Code is not permissible. Period. Strike the rest.

THE CHAIR: Ms. Rorapaugh, are you okay with that?

MS. RORAPAUGH: I think that changes – I think the compromise that we had hammered out was to allow the County Commissioners to do non-profit charitable solicitation as long as it was

transparent. We are now saying that they cannot engage in the local fundraising.

MR. SCHERER: That's my proposal. That is my proposed amendment.

THE CHAIR: Let's do this --

MR. WOLFE: Take his amendment --

THE CHAIR: We will. Any members have any issues with Ms. Rorapaugh's recommendation to change that language?

MR. SCHERER: First you need to vote on mine and then go to number 2, because mine would eliminate the need for number 2.

MR. WOLFE: I agree.

THE CHAIR: Okay. There's a motion by Mr. Scherer to accept his language. Is there a second? None being heard, motion dies for lack of second. Any members have any issues with Ms. Rorapaugh's recommendation?

MR. FINK: I move Ms. Rorapaugh's recommendation.

THE CHAIR: Ms. Rorapaugh, would you again --

MS. RORAPAUGH: This would be what I caught in line 14, an individual or – strike, "business," and put entity.

MR. COLLADO: Second.

MR. MEYERS: Just a clarification. You mentioned that there were a few places where that exists; is it your intent to make that change throughout the document?

MS. RORAPAUGH: Yes.

THE CHAIR: Motion by Mr. Fink. Is there a second? Second by Mr. Wolfe. Any discussion? All in favor of that amendment signify by saying, aye. Any opposed, same sign.

MR. SCHERER: No.

THE CHAIR: Motion passes.

MR. WOLFE: And again, we will be cleaning up a couple of sentences here with the County Attorney's assistance where it talks about online reporting, to make those consistent.

MR. MEYERS: Yes, sir. Throughout.

THE CHAIR: Consistent throughout. Any other discussion on Section 6 -– I apologize. A, 1 through 4.

MR. WOLFE: Move adoption, Mr. Chair.

THE CHAIR: Moved by Mr. Wolfe.

MR. FINK: Second.

THE CHAIR: Second by Mr. Fink. All in favor signify by saying, aye. Any opposed? Same sign.

MR. SCHERER: Page 8. Down to campaign contribution fundraising. We just did the charitable. You didn't do the b., did you? Did you intend to do b.?

THE CHAIR: Yes, sir.

MR. SHECHTER: I missed that. I'm sorry.

MR. FINK: I thought we just did "a."

MR. MEYERS: The vote was appeared just on -- have been on "a."

THE CHAIR: Correct. A, 1 through 4.

MR. MEYERS: Yes, sir.

THE CHAIR: And then b – okay. Does every member – let's do this, just to make sure there is no confusion, and we don't miss an intent. Is every member okay with a., 1 through 4?

MR. SCHERER: No.

MR. WOLFE: He recorded his no vote.

THE CHAIR: Moving on to Section b., 1 through 5. The Chair will give members a moment.

MR. SCHERER: I have an amendment under paragraph 3 that should be changed to add after the first 2 words, "are prohibited from," and strike the "who," and add "soliciting campaign contributions for other candidates for public office." Period. Strike the rest of the provision. Paragraph.

THE CHAIR: Is there a second for Mr. Scherer's motion? No second being heard, motion dies.

MR. WOLFE: Mr. Chair, move adoption.

THE CHAIR: Motion by Mr. Wolfe to move adoption of Section b., 1 through 5. Second by Commissioner Shechter. All members signify in support signify by saying, aye. Any opposed, same sign.

MR. SCHERER: No.

THE CHAIR: C.

MR. WOLFE: Mr. Chair, second c.

THE CHAIR: Moved by Mr. Fink, second by Mr. Wolfe. Any discussion? No discussion being heard, all in favor of adopting c., signify by saying, aye. Any opposed, same sign. Motion passes. 6, Procurement.

MR. FINK: I have a question. Point of order.

THE CHAIR: Mr. Fink.

MR. FINK: On a., and I know that Rob and his office and Andy's have worked on this topic. Verbiage in here that we never spoke and they picked it up. This first sentence to me -- I don't -- I'm not sure why it's there, but it's editorial opinion, and I'm not even sure it's accurate. For us to stand there and say it is a conflict of interest for a member of the Board to serve – I'm not sure it is –

MR. WOLFE: (Inaudible.)

THE CHAIR: Go ahead, Mr. Fink.

MR. SCHERER: Which shall be.

THE CHAIR: Mr. Fink, go ahead.

MR. FINK: I'm a not sure why we need that sentence and that was my point. Why wouldn't we just start at "County Commissioners shall not be included as members of selection or evaluation committees."

MR. WOLFE: Why are we --

THE CHAIR: Hold on. Is your recommendation to strike sentence 1? Is there support for Mr. Fink's motion to strike sentence 1?

MS. RORAPAUGH: Second.

THE CHAIR: Second by Ms. Rorapaugh. Discussion? Mr. Wolfe.

MR. WOLFE: Just -- because that language was in our draft document previously. I mean it's --

MR. FINK: I'm not arguing it wasn't. Because I went back to every draft I could find and then I started to question –

MR. WOLFE: I don't want to go back and forth. I'm just saying –

MR. FINK: I'm not disagreeing.

THE CHAIR: Any other member have any comments?

MR. SCHERER: I do. Mr. Fink, I think that we should consider -- maybe you will consider an amendment to your amendment that strikes the "is," after the first word and put "shall be," therefore it gives the Inspector General our -- the intent of the Board to make it a conflict of interest, and we ought to state it, that it shall be a conflict of interest, to you know?

THE CHAIR: Mr. Fink, do you want me to accept that amendment?

MR. FINK: I will accept that amendment.

THE CHAIR: Are the members clear on the amendment? Any further discussion? All in favor of the amendment -- the motion as amended, signify by saying, aye. Any opposed, same sign. Mr. Meyers, are you clear on that for the language?

MR. MEYERS: Yes.

MR. WOLFE: Move adoption of the whole thing?

MR. FINK: I moved Section 6.

THE CHAIR: Any other comments on Section 6? Move to adopt by Mr. Fink.

MR. WOLFE: Second.

THE CHAIR: Second by Mr. Wolfe. Any discussion? All members in favor of adopting Section 6, signify by saying, aye. Any opposed? Same sign. Motion passes. Section 7, a.

MR. WOLFE: Move adoption.

THE CHAIR: Move to adopt Section 7, a., by Mr. Wolfe, second by Commissioner Shechter. Discussion? No discussion being heard, all in favor of adopting 7, a., signify by saying aye. Any opposed? Same sign. Motion passes.

MR. FINK: Point of information. Is this the section we're talking about where you're going to make the language consistent throughout?

MR. MEYERS: Throughout, yes.

THE CHAIR: Section (c) Training and Education 1 and 2.

MR. WOLFE: Move adoption, Mr. Chair.

MS. COWARD: Second.

THE CHAIR: Move to adopt by Mr. Wolfe, second by Ms. Coward. Discussion?

MR. FINK: Time to read.

THE CHAIR: Members will have some time.

(At this time the telephone indicated a beeping sound.)

MR. WOLFE: (Inaudible.)

MR. COLLADO: I move that we – (Inaudible.)

THE CHAIR: That's already been moved. We're just giving members time to read. Mr. Fink, are you good?

MR. FINK: Yep. Thank you.

THE CHAIR: All in favor of adopting C 1 and 2 signify by saying aye. Any opposed? Same sign. C 1 and 2 passes. D, Enforcement. We're going to break this down a little bit. Section a, 1, 2 and 3.

MR. WOLFE: Move adoption, Mr. Chair.

THE CHAIR: Section a., 1, 2, and 3 is moved by Mr. Wolfe, second by Commissioner Shechter. Any discussion? No discussion being heard, all in favor of adopting Section a.., 1, 2 and 3, signify by saying, aye. Any opposed? Same sign. Section B, 1 through 7, a, b, and c. Mr. Fink?

MR. FINK: On number 2 and Mr. Meyers, line 10. "By the Inspector General that good cause exists including but not limited to receipt of a filed complaint." One of the things that we debated is that a filed complaint by here is not necessarily prohibiting anonymous complaints, and I think one of the things we wanted to make sure of that we did not accept – or he did not accept anonymous complaints. Somebody could file a written complaint and be anonymous, and I would like to have that clarified.

THE CHAIR: Mr. Meyers.

MR. MEYERS: Yes. I think the way it's written – and again, Rob discussed this with me and maybe they want to make sure my understanding is consistent with what the instruction was -- you didn't want it to only be complaint-driven, that you also wanted to make sure that Inspector General could investigate based upon good cause. This would allow the Inspector General to determine that good cause exists despite the fact that an anonymous complaint is submitted or the Inspector General could exercise his or her discretion to say it is not good cause.

MR. FINK: No. I think the point was -- and we're okay with that, we want him to be – initiate his own -- have the ability to initiate his own investigation; however, we were not going to allow an anonymous complaint to be filed.

MS. RORAPAUPGH: No.

MR. WOLFE: You're wrong, Mr. Fink.

THE CHAIR: No.

MR. SCHERER: I don't agree.

MR. FINK: We were going to allow anonymous complaints?

MR. WOLFE: Absolutely. The Inspector General determines if there is good cause --

THE CHAIR: That was a long term debate, in fact.

MR. SCHERER: The hotline, remember the hotline discussion?

THE CHAIR: Mr. Fink, are you okay with that? Or do you --

MR. FINK: If everybody says I'm nuts, I'm nuts.

THE CHAIR: You're nuts but we love you.

MR. WOLFE: We love everybody.

MR. FINK: You guys voted. I just thought because of the reason (inaudible) about the 60 day notice of the (inaudible) I thought that is one of the reasons why we said there could be a hotline but that person had to state their name and address.

THE CHAIR: Is anybody thinking the way Mr. Fink is thinking? Hopefully not.

MR. FINK: Lucky you.

MS. RORAPAUGH: I had one thing and I meant to ask when we were debating this whole thing. Right now we're confining to the Inspector General investigating the Commissioners. In our original discussion we had talked about them having the power to investigate, in association with that; vendors, contractors, et cetera, et cetera, much as an auditor could. Will this language allow that?

MR. MEYERS: I would have to read the whole document. I know that some earlier drafts, I believe there was some language had been very broad, conceptually very broad auditing authority.

MS. RORAPAUGH: And it disappeared.

MR. MEYERS: Yeah. I don't think it's in here, and if that is the intent, right now there is an Office of the County Auditor, by Charter, which there would need to be coordination. I think at one point Rob drafted language in here saying that the Office of the County Auditor shall make resource available. I think that is a way of trying to resolve that.

(Mr. Scherer left the room.)

MS. RORAPAUGH: And then my second question for counsel is if the local Bill – if the legislature passes a Bill or the County Commission passes a resolution that expands the authority of this I.G., how will those conflicts be taken care of? I'm thinking of this as who can the Inspector General investigate, how broad can those investigatory powers be, and eventually I'm going to ask the same question about the Selection Committee.

MR. MEYERS: Well, the local Bill would prevail over this if there's a conflict, and the local Bill is enacted not just by the legislature but then it would be subject to a vote of the electors. If there are any Charter provisions, would prevail also and whether the County Commissioner, if it passes some resolution, Ordinance, et cetera, extending this to staff and/or somehow expanded to cover other entities, we have to see how it's drafted, and we will also have to see -- determine the effect of the issue we were talking about earlier, which is County, County Commission modify language that's in here by simple majority. There are a lot of issues there, but if local legislation passes that would take priority and control, this Ordinance.

MS. RORAPAUGH: And in any way is the wording of this constraining the hands of the County Commission, the local Legislative Delegation, or like authority, to expand this I.G. authority to staff, to contractors, to whatever?

MR. MEYERS: I reviewed it several times. I don't believe that is the case. The County Commission understands the intent or what

this Ethics Commission wishes, and everyone stated very clearly that they would like to see it expanded. I don't know if any language in here that would restrict the authority of the County Commission, and certainly not the local –- the local Legislative Delegation, but the Legislature from expanding the scope of it.

MS. RORAPAUGH: And my final question also, in Section 5, in connection with an investigation Inspector General shall have the power – would this extend beyond County Commissioner's offices, County Commissioners records, County Commissioners documents and records so that they can do a full and complete investigation?

MR. MEYERS: Yes.

MR. WOLFE: Absent any specific amendments I will move adoption.

(Mr. Scherer entered the room.)

MR. MEYERS: I wanted to raise -- again from our favorite source in the morning, Ms. Keehler, did raise an issue. It's on Page 11, Line 14. It starts on line 14. The end of that says that basically the complaints are held in abeyance until the last election until that local office has been determined. She thought that may be unclear to individuals. I think that is a term of art. We know what it means, but if there is – if anybody thinks it needs to be clarified, I do have a sentence that we can put in there. It would say, until the election is determined or if the complaint is made within 60 days of a primary election until the election is

determined, if the individual for whom the complaint was filed remains a candidate in the general election.

MR. WOLFE: I would move adoption of said amendment.

MR. SHECHTER: Second.

THE CHAIR: Moved by Mr. Wolfe, second by Commissioner Shechter. Any discussion? There's a motion on the floor.

MR. WOLFE: I will take the amendment right now.

THE CHAIR: All in favor of the amendment say aye. Opposed, same sign.

MR. WOLFE: I move adoption of this section, Inspector General.

MR. SHECHTER: Second.

THE CHAIR: Moved by Mr. Wolfe, seconded by Commissioner Shechter.

MS. RORAPAUGH: Section B.

THE CHAIR: Section b., 1 through 7 – 1 though 6, I apologize. ICHLTD I section B 1 through 7 -- 1 through 6, I apologize.

MR. MEYERS: Not 7? I just didn't want to also speak to -- it would actually go a little bit later, but it would be back on, I believe at 7.

THE CHAIR: Members want a moment to review 7 and hear the amendment? Let's accept a motion to approve Section b., 1 through 6. All in favor signify by saying, aye. Any opposed, same sign. Section 7, a through c. Mr. Meyers.

MR. MEYERS: Actually the proposed amendment would be a d., that is added to it.

THE CHAIR: Okay. Would you give that to us and the members can consider it in its entirety.

MR. MEYERS: Certainly. Going back to the same source there was a suggestion that we include more "meat on the bones," in terms of the administrative hearing officer and delineate some of the powers. I went through our Code yesterday and picked out some language that I can certainly read into the record. It will take about a minute.

THE CHAIR: Please do.

MR. MYERS: And this would be d., added on Page 14 at the end of c -- page 13, I apologize. The end of 13. "In addition to all other authority granted in this section the hearing officer shall have the authority to a, issue notices of hearings; b, administer oaths and affirmations; c., issue subpoenas authorized by law, including those requiring the attendance of witnesses and the preservation and production of documents and other items which may be used as evidence; d, rule upon motions presented and offers of proof and receive relevant evidence; e, issue appropriate orders to effectuate discovery; f, regulate the course of the hearing; g, dispose of procedural requests or similar matters; h, enter any order consistent with his or her authority to carry out the purposes of this Chapter. Except to any extent inconsistent with any provision of this section the Florida Rules of Civil Procedure, as amended, shall apply to hearings under this section. Finally, within 30 days after completion of the

hearing, the hearing officer shall issue a final order determining whether a violation of the Code has occurred. The final order shall contain detailed findings of fact and conclusions of law. If a violation has occurred the final order shall specify the sanction or sanctions imposed. Orders issued by the hearing officer including the final order, are subject to judicial review as provided by applicable law." That is the end of that, and I wanted to present to the Chair that Ms. Keehler did ask a question as to who would be doing the prosecution and one suggestion – imagine and maybe it's inspirational, there wouldn't be very many prosecutions that it may make sense to consider language requiring in the document that the budget also include funds to retain counsel to prosecute.

THE CHAIR: That second issue, is that part of the amended d.?

MR. MEYERS: Not d., but it's related and that would go wherever the budget language is in the document.

THE CHAIR: Let's hold that second part for now. Is there a motion to accept the amended language of d?

MR. WOLFE: So moved.

MR. SHECHTER: Second.

THE CHAIR: Second by Commissioner Shechter. Discussion? Mr. Shechter.

MR. SHECHTER: Mr. Meyers, this is not a trial before the hearing officer, it's a hearing. So why are we talking about who is going to prosecute and who is going to defend? If the matter is referred to the

hearing officer, he is going to issue an opinion, he's going to bring that party in to be heard; is there need for a prosecutor?

MR. MEYERS: Well, I think it's going to be more formal than that. It certainly is at the State level, if it gets to that -- at the County level where there are Codes of Ethics and it's even in our Administrative Code regarding Code Violations and things of that matter. Prosecution may not be the appropriate word, but somebody needs to present the charge and present that side of the case, and then the individual --

MR. SHECHTER: Wouldn't that be -- when the hearing officer, when it's referred to him, he is going to send out a notice to the alleged perpetrator to come in for a hearing, and the hearing is before him that is what his job is.

MR. MEYERS: Yes. But the hearing is not an informal hearing where --

MR. SHECHTER: Not informal by any means. It's a full blown hearing in front of a hearing officer appointed for that very purpose.

MR. MEYERS: Yes, sir. It's an evidentiary hearing.

MS. RORAPAUGH: Someone has to present the Inspector General --

MS. COWARD: Point of information. I thought the Chair just indicated we would deal with that issue of –

THE CHAIR: Yeah. We got into that second part of the issue that I asked to hold in terms of the prosecutor.

MR. MEYERS: I think it speaks also to the first part, are you questioning the formality of the procedures that were discussed?

MR. SHECHTER: Yeah. And I compare this to -- I do as I said earlier in the hearings -- I do some arbitration work for Finra, (phonetic) it's set up as a hearing before a three member panel; both parties come in, they present their cases to us, the panel, we issue a decision. There is no prosecutor, there's no defendant.

THE CHAIR: Mr. Meyers, is this your proposal?

MR. MEYERS: No. Ms. Keehler's suggestion was to include something. I concur with her suggestion. The language actually substantially tracks provisions in our existing Code for administrative hearings.

MR. SCHERER: Carl, when the parties appear before your three panel in the arbitration, they're represented by lawyers probably?

MR. SHECHTER: Yes.

MR. SCHERER: Okay. Two sides. When there is a matter that is referred to a hearing officer that serious enough, you can bet the County Commissioner will have representation, the Inspector General is going to be a witness showing the evidence to show probable cause, and there needs to be -- the public needs to have a prosecutor or a representative representing their side, otherwise it's all going to be one-sided. So and that's part of administrative adjudication. You can use another word. The representation – the Inspector General is the witness.

MR. SHECHTER: Maybe the word, "prosecutor," is bothering me.

MR. SCHERER: I think these are really good suggestions. There was a glaring hole in the draft that had to be corrected, and we're going to have some more probably. That is why we're going to have to come back again.

THE CHAIR: I would agree. Mr. Meyers, I apologize, but I'm going to ask you, since that was quite lengthy, at least for me, I would like to hear it again and digest a little more. If you would just read it again.

MR. MEYERS: Absolutely. Again, this would be d at the end of -- after subpart 13. "In addition to all other authority granted in this section the hearing officer shall have the authority to and it goes a through h; a, issue notices of hearings; b, administer oaths and affirmations; c., issue subpoenas authorized by law, including those requiring the attendance of witnesses and the preservation and production of documents and other items which may be used as evidence; d, rule upon motions presented and offers of proof and receive relevant evidence; e, issue appropriate orders to effectuate discovery; f, regulate the course of the hearing; g, dispose of procedural requests or similar matters; h, enter any order consistent with his or her authority to carry out the purposes of this Chapter. Except to any extent inconsistent with any provision of this section the Florida Rules of Civil Procedure, as amended, shall apply to hearings under this section. Within 30 days after completion of the hearing, the hearing officer shall issue a final order determining whether a violation

of the Code has occurred. The final order shall contain detailed findings of fact and conclusions of law. If a violation has occurred the final order shall specify the sanction or sanctions imposed. Orders issued by the hearing officer including the final order, are subject to judicial review as provided by applicable law."

MR. FINK: Are you going to have any more of these?

MR. MEYERS: That unfortunately is my last one.

MR. FINK: No. Fortunately. Something like that length you should of had copies of.

MR. MEYERS: I did it late last night, and I'm not sure you would have received it.

MR. FINK: No –

THE CHAIR: Thank you, Mr. Meyers.

MR. MEYERS: I can make copies if anyone wants.

MR. FINK: I would like to table voting on that.

MR. WOLFE: It's pretty standard --

THE CHAIR: There is a motion on the floor. There's a second. The floor is still open for discussion.

MR. WOLFE: I move adoption. Call the question.

MR. SCHERER: I have discussion.

THE CHAIR: Mr. Scherer.

MR. SCHERER: I think after civil procedure you should put including Florida Evidence Code, because that is -- if you get to that stage then that should -- that offers protections from hearsay and other things like

that, that you and I know about, that ought to be in there for safeguards for due process safeguards

MR. MEYERS: Good point.

THE CHAIR: Any members have any objection to that recommendation?

MR. FINK: Second.

THE CHAIR: Motion on floor. Second to adopt that language into Section 7 as d. All in favor signify by saying, aye. Any opposed? Same sign. Motion passes. Without objection, we'll take sections 8 through 13. I'll give a moment to review. If there's any recommendations --

MR. WOLFE: What was the legal ramification for taking out reference to Inspector General being a public official?

MR. MEYERS: I didn't know that it meant. I, frankly, wasn't sure. My understanding from discussing with Mr. Teitler was there was some reference to public official earlier in the document that would somehow make – therefore make the rules applicable to Inspector General. I did a global search in the document and I didn't see it, so I frankly, didn't know --

MR. WOLFE: I think there was a reference to a local Bill, maybe.

THE CHAIR: Mr. Wolfe, I believe we were trying to make sure that the appropriate language was in there so that this applied to the Inspector General.

MR. SCHERER: There is a Code, there's a Florida Statute that governs conduct of a public official and a public official's capacity, and it strengthens the law with respect to what a public official can do as opposed to just an employee of the County. So I think it adds to it, Drew, and if you would refer to that section in State law you see it adds checks and balances for the Inspector General.

MR. MEYERS: If it's the will of the Chair and the Commission, perhaps in 13, because I didn't know that -- my understanding was that all it did was apply this Code, so what we could do is perhaps is add – the Inspector General is hereby deemed to be a public official and shall be subject all applicable provisions of this Code.

THE CHAIR: And that is what it says now except reversed?

MR. MEYERS: It's just adding it in 13. I think public official was taken – so the Inspector General is hereby --

MR. FINK: Shall be deemed to be a public official. Is that what you said?

THE CHAIR: If we just put that strike language back in, doesn't it say what we're asking it to say? It says he's subject to all –

(Ms. Rorapaugh left the room.)

MR. SCHERER: The way he stated it is better. It's clear.

MR. MEYERS: I would say, "shall," implies (inaudible) is hereby deemed to be a – and my writing is as bad as Mr. Scherer's, so I'm going to try to take my time – a public official -- and the rest of it is fine – shall be subject to all applicable provisions in the Code.

THE CHAIR: Members accept that change? All in favor of adopting 8 through 13 with the amended language signify by saying, aye. Any opposed? Same sign. Section C, 1, a through 4. Give the members a moment. Mr. Meyers, while members are looking is your staff coming in now? Are they working on these changes as we speak? Is that what is happening.

MR. MEYERS: No. They're researching those issues we spoke about earlier.

THE CHAIR: Any comments?

MR. FINK: (Inaudible.)

THE CHAIR: I'm sorry? We're not at 15. We're at Section C, 1, a through 4.

MR. WOLFE: Move adoption.

MS. COWARD: Second.

THE CHAIR: Moved by Mr. Wolfe, second by Ms. Coward. Any discussion? All in favor of approving Section C, 1, a through 4, signify by saying, aye. Any opposed, same sign. 1, b, c, and d. Still on page 14.

MR. WOLFE: Move adoption, Mr. Chair.

THE CHAIR: Moved by Mr. Wolfe, second by Commissioner Shechter. Any discussion? None being heard, members in favor of adopting Section 1, b, c, and d, signify by saying, aye. Any opposed, same sign. B, c and d passes. Section e and f.

MR. WOLFE: Move adoption, Mr. Chair.

(Mr. Shechter left the room.)

THE CHAIR: Moved by Mr. Wolfe, second by Ms. Coward. Any discussion? All members in favor of approving e and f signify by saying, aye. Any opposed, same sign.

MR. FINK: Nay.

THE CHAIR: Okay. Nobody voted, unless I missed something. All members in favor of passing Section e and f signify by saying, aye. Thank you. Any opposed?

MR. FINK: Nay.

THE CHAIR: Motion passes.

(Ms. Rorapaugh entered the room.)

THE CHAIR: Number 2.

MR. WOLFE: Motion to adopt, Mr. Chair.

THE CHAIR: Motion to adopt Number 2 by Mr. Wolfe. Is there a second?

MR. BAKALAR: Second.

THE CHAIR: Second by Mr. Bakalar. Any discussion?

THE CHAIR: Do members need time or do we need a recess?

MR. WOLFE: We debated this last week.

THE CHAIR: Yeah. The silence is concerning me a little bit. We're good? All in favor of adopting Number 2 signify by saying, aye. Any opposed, same sign. Motion passes. Section 3, a, b, 1 through 5.

MR. FINK: I believe we already heard from the Chief Judge that he is either unwilling or unable to serve.

THE CHAIR: Ms. Cepero.

MS. CEPERO: That's correct. I got an affirmative from Dean Steele (phonetic) of Nova Southeastern University, an affirmative from State Attorney Mike Satz, an affirmative from special agent in charge, Rosas. The title does need to change, because there is no such thing as the Broward Field Office. So it should read the Miami Regional Operation Center. And they actually handle the lower four counties in the State. I can get with legal counsel.

THE CHAIR: And Chief Judge.

MS. CEPERO: I have not heard back from the Public Defender, Mr. Finkelstein, and we heard no, from Chief Judge Tobin, because he has conflicted.

MR. WOLFE: We never did clarify with the Chief Judge though if he could appoint somebody.

MS. CEPERO: He has not responded.

MR. WOLFE: I was emailed last night that in the local Bill he is still in there, and the comments Sandy Harris e-mailed me last night was – I don't think they personally expected him to serve, but they expected an appointment of his to serve.

MR. SCHERER: Did you ask him if he could appoint?

MS. CEPERO: I did. He has not responded.

MR. FINK: I think this goes back to the discussion that we had that including these three individuals who are elected is politicizing. I believe Ms. Greenbarg sent through an e-mail of Monica's, -- forwarded to

us that she had recommended the third totally independent from the auditors --

MS. CEPERO: Association of Independent – Internal Auditors.

MR. FINK: Do you have a copy of the e-mail?

MS. CEPERO: I don't have that with me.

MR. FINK: Could you see if you could have somebody bring it in?

MS. CEPERO: Sure.

MR. FINK: Because we did add two additional people; one being the Dean, which we haven't heard from, or his appointee, and the second being the special FDLE agent. We might need to delete the other two elected officials and then just appoint a third and go back to three.

THE CHAIR: After Ms. Cepero advised that the Chief Judge could not serve because of a conflict and didn't respond, I asked her to check with the United States Attorney, Southern District and she --

MS. CEPERO: I reached out but did not hear back.

THE CHAIR: I thought you said this morning they would?

MS. CEPERO: Uh-uh.

THE CHAIR: So I would recommend that office as well, if he was willing to serve. We don't know that answer. I'm not willing at this time to start throwing out these people, who we already vetted because the Public Defender hasn't responded, or because the Chief Judge cannot serve, but we don't know of an appointment because we agreed on all

those positions then or an appointment. The clarification I needed from the group was when we said them or their appointment, were we referring to an appointment from their office or an appointment in general?

MR. SCHERER: I don't understand.

THE CHAIR: If the Chief Judge cannot serve, and we said or an appointment, does it has to be someone within his office or designee? Someone in his office or can he go outside to anybody?

(Mr. Shechter entered the room.)

MR. SCHERER: If he can't serve neither can his judges.

THE CHAIR: So we meant that for all the offices; that was the intent. It could be a designee, whoever it comes from. Mr. Wolfe.

MR. WOLFE: Again, I want to caution my colleagues here today. We're only "one spoke of the wheel here." We are going to have a local Bill on top of this, and probably some other things popping up on top of this that the legislature enacts a Bill it will supersede this. We also wrote in provisions last week after debating the public official section that if any of the above individuals are unable, unwilling to serve, a member of the Selection Committee, Oversight Committee shall fill the vacancies by majority vote. We're covering our bases. So I'm not going to get worried if the Chief Judge doesn't answer something right now. We put provisions in there to take care of this.

MR. SCHERER: I agree with that.

MS. RORAPAUGH: I would strongly, as an aside, all of us that are voting on this need to let our legislators know that this is the

makeup of the Selection Committee that the Broward County Ethics Commission wants, because the local Bill outlines the League of Cities, the Mayor, everyone else. And I think we're trying to – we need to remind our legislators that there is a purpose to how we choose the Selection Committee.

THE CHAIR: Let's – I think we might have got a little bit ahead of ourselves on discussion. To stay consistent, let's get a motion and a second. We can continue discussion if it's the will of the –

MR. WOLFE: Motion to approve, Mr. Chair.

THE CHAIR: Motion to approve Section 3, a, b, 1 through 5. Is there a second?

MR. SCHERER: Second.

MS. RORAPAUGH: Did you want to add the U.S. Attorney's office?

MR. SCHERER: No.

MS. RORAPAUGH: Leave it as is.

MR. SCHERER: If they choose.

THE CHAIR: My recommendation was if we didn't have anybody to fill. I understand Mr. Wolfe's point. We have a provision here that says, the Selection Committee will decide if they can't fill a position.

MR. FINK: Did somebody answer the question about his designee inside or outside the office?

THE CHAIR: His designee is his or her designee, whoever that is.

MR. WOLFE: Designee is a fairly obvious word.

MR. FINK: You know what, if there's a difference –

THE CHAIR: Again, I think it was discussed and we agreed it's his or her designee, whoever that is. It could be in, it could be out.

MS. CEPERO: Do you still want that e-mail, the Internal Auditor e-mail?

MR. WOLFE: No. It's not in order right now. Everybody –

MS. CEPERO: I know. He asked for copies.

THE CHAIR: He is entitled to the e-mail if he wants the e-mail.

MR. WOLFE: Everybody got it.

MR. FINK: Is there a problem with me asking for it?

THE CHAIR: If the member wants a copy, please get him a copy.

MS. CEPERO: It's coming.

THE CHAIR: Again, it's not going to change the fact that we agreed that position is going to be filled by the Selection Committee, if somebody is unwilling to serve.

MR. WOLFE: Point of information. In response to is -- I did e-mail a copy of our draft that we're looking at today to Representative Bogdanoff, last night, and her staff and slighted our Selection Committee deliberations.

THE CHAIR: C d, e – let's call the vote. Members in favor of approving Section 3, a, b, 1 through 5, signify by saying, aye. Any opposed, same sign. Motion passes.

MR. MEYERS: With Ms. Cepero's change in title, in 4, special agent --

THE CHAIR: Thank you, Mr. Meyers. C, d, e and f.

MR. WOLFE: Motion to approve.

MR. SHECHTER: Second.

THE CHAIR: Second by Mr. Shechter. Discussion?

MS. COWARD: As relates to (inaudible) how we have it reading, I don't have a problem with that language in particular, but I would like for us to offer as a friendly amendment, when there's a Selection Committee or hiring the hearing officer, and also I guess with the I.G., that we put – add some language about some – general language about the considering of diversity. My concern is based on the position that we have on the Selection Committee, right now they will all be men, there will be no agenda diversity, and just because – if you have the Dean right now is African American, will be the only minority position. So the Selection Committee will be mostly majority and I will like for the people that they're hiring to be sensitive somehow – diversity -- so everybody in the whole process from Selection Committees through I.G.'s and hearing officers, that there is some diversity reflected in that process.

MR. COLLADO: Second.

MR. WOLFE: I'll accept that as a friendly amendment.

THE CHAIR: There is a motion for friendly amendment accepting Ms. Coward's language, seconded by Mr. Wolfe. The floor is open for discussion.

MR. SCHERER: How is it going to read?

MS. COWARD: I spoke with the attorney. Apparently there is already existing language and documents that the County has through Human Resources, so I was suggesting that they just pull out the language that they currently use and insert it with the intent being to have diversity being a consideration.

MR. MEYERS: Yes. Just general language which is relatively standard in most governmental documents, but something to the effect that diversity shall also be a consideration in the Selection of the I.G. and the hearing officers. Just a factor to be considered.

THE CHAIR: Is it the standard language on all job postings, Broward County does not discriminate against age, sex, race, creed, et cetera?

MR. MEYERS: Yeah. That's there. But that's in job postings for a reason. I don't how – I mean, we can add three pages on various things. But I think the motion and the appropriate one is to just state the diversity should be a consideration in the appointment or selection of the Inspector General and the selection of hearing officers.

MS. COWARD: That was my intent.

THE CHAIR: Further discussion?

(Mr. Collado left the room.)

THE CHAIR: Motion to approve c, d, e and f as amended. All members in favor signify by saying, aye.

MR. MEYERS: Mr. Chair, you are giving me discretion to figure out where that diversity consideration should go?

THE CHAIR: I thought Ms. Coward was asking to add that clarification within f, but if you believe it belongs somewhere else –

MR. MEYERS: F is just hearing officers. It would have to go elsewhere.

THE CHAIR: Okay. Wherever applicable to those positions that are hired by the Selection Committee; is that correct, Ms. Coward?

MS. COWARD: Yes.

THE CHAIR: Thank you, Mr. Meyers. Number 4, 5 . Let's do 4 and 5. 6 goes on for a while.

MR. WOLFE: Motion to adopt.

THE CHAIR: Motion to adopt Number 4 and 5 by Mr. Wolfe.

MR. FINK: Second.

THE CHAIR: Second by Mr. Fink. Discussion? Members need time. All in favor of adopting Section 4 – number 4 and 5, signify by saying, aye. Any opposed? Same sign. 4 and 5 pass. Section 6, d, e, 1, 2, 3, going from page 17 to 18.

MR. FINK: I'm not sure I understand the number.

MR. MEYERS: I think the numbering is problematic throughout the document. One of the things that we would suggest; normally we do have, through inherent authority, to clean up lettering, numbering, without making any substantive change

THE CHAIR: We're noting go on 6, d, e, 1, 2, 3, as you read it before you today on this draft.

MR. WOLFE: Motion to accept. So moved.

MR. SHECHTER: Second.

THE CHAIR: Moved by Mr. Wolfe, second by Mr. Shechter. Again, as a point of clarification, we're voting on, as you see it before you today as the numbers, but the County Attorney certainly has the authority to clean that up. I think it needs to. Sometimes you don't know if you're in a new section, or a continuation of.

MR. WOLFE: I have a legal question for the Chair of the council. We have our Selection Oversight Committee now composed of five members. Say, for some reason, one member doesn't serve, or doesn't designate a designee, should we say, the presence of all members of Selection Oversight Committee – I'm talking about legal, instead of saying, five people, like what if that fourth person or that Chief Judge doesn't appoint somebody, can we let the committee just appoint that person first, or – is that the process?

(Mr. Collado entered the room.)

MR. SCHERER: The entire committee rather than five? Put a number?

MR. MEYERS: Yes. It's up to you. I can draft it either way. The thinking was that the Selection Committee was serving an important, .a very important function and that you'd want to say, see the appointment of the fifth person. Theoretically several people may need to be appointed so now you can be down to three. I know there was a lot of discussion about making sure that -- there was a strong decision before to make sure it wasn't in any way criticized. So that is why it was drafted as is.

THE CHAIR: Mr. Meyers, I believe we talked about the odd number, so it they almost have to point the odd number because if the fifth one doesn't agree, we end up with four. You know (inaudible) do we not keep it at five or say, must be an odd number. You almost have to appoint –

MR. FINK: I think you need to keep it at five, because you will end up with four, and that's a problem.

THE CHAIR: Any other comments? I agree, Mr. Fink. No other comments being heard, it will stay as drafted. Motion to approve 6, d, e, 1, 2, and 3.

MR. FINK: So moved.

THE CHAIR: Sorry. All members –

MR. FINK: See, we just follow you blindly.

THE CHAIR: You had me confused. All members in favor of support 6, d, e, 1 through 3 signify by saying, aye. Any opposed, same sign.

MS. COWARD: Point of information.

THE CHAIR: Yes, ma'am.

MS. COWARD: To give the County Attorney's Office permission to change numbering as deemed appropriate, do we need a motion for that or do we have a consensus and that's all that is necessary?

THE CHAIR: Legally do we need a motion?

MR. MEYERS: Frankly, I think we have, it's just ministerial, I believe, but because I'm not a parliamentarian –

THE CHAIR: I'm okay with consensus unless any member feels otherwise. Thank you. Section F, g, 1 and 2. Is there a motion?

MR. WOLFE: Motion to adopt, Mr. Chair.

THE CHAIR: Motion to adopt by Mr. Wolfe.

MR. COLLADO: Second.

THE CHAIR: Any discussion? Sorry, ma'am, we closed public comment already. Members need time? The Chair has a question for Mr. Scherer. I believe when we discussed 2, was it not a concern that you had when we said the oversight committee shall convene annually, that we talked about at least annually?

MR. SCHERER: Yes.

THE CHAIR: Then I would recommend that language make it in there.

MR. MEYERS: Yes. You think it's not adequately covered by 2 or –

THE CHAIR: Well, it says the Selection and Oversight Committee shall convene annually and we discussed that we wanted that to be at least annually, whether they called for a meeting, or the I.G. called for a meeting, that they would – and also I believe it was Section/Oversight Committee. That kind of reads to me that that is two committees, and I may be reading into that. And I will defer to the lawyers for that language.

MR. MEYERS: It doesn't matter. I mean, I think it's pretty clear that it's one committee, but we can change the –

MR. WOLFE: At least --

THE CHAIR: "At least," I believe, needs to be inserted.

MR. WOLFE: I will take it as a friendly amendment.

MS. RORAPAUGH: I believe we also talked about having some language where the Inspector General could ask for the committee to lead. And that is not in here.

THE CHAIR: We did discuss that as well.

MR. WOLFE: I guess we can do -- would be on line 8.

MR. SCHERER: Mr. Chair, if you would take the other -- the second sentence of the meetings of the committee, maybe set by majority vote, during the annual meeting or at the request of the Inspector General.

MR. WOLFE: I'll accept that as a friendly amendment.

THE CHAIR: Thank you, Mr. Wolfe. Members still need time?

MR. FINK: No.

THE CHAIR: Members in favor of adopting Section F, g, 1 and 2, signify by saying, aye. Any opposed, same sign. H, 1, 2, and 3.

MR. WOLFE: Move adoption.

THE CHAIR: Moved by Mr. Wolfe. Is there a second?

MS. COWARD: Second.

THE CHAIR: Second by Ms. Coward. Any discussion?

MR. MEYERS: This would be the appropriate section to include specific requirement to make sure that the approved budget shall include (inaudible) at requested shall include funds for counsel, outside counsel I guess to – prosecute may not be the right word, but

MR. SCHERER: Implement. Implement procedure set up in this Ordinance.

MR. MEYERS: Well, I was concerned about that, because "implement," may imply responsibilities other than just handling the case, but basically to represent the public interest at the hearings.

MR. SCHERER: But we're not precluding the County Attorney's Office from providing that function, I wouldn't think.

MR. WOLFE: Do you have any suggested wording?

MR. MEYERS: I could come up with something that I think you all would be comfortable with if there's a problem with prosecute.

THE CHAIR: Without the word prosecute.

MR. MEYERS: Without the word, "prosecute." I don't think it really is a negative condemnation here in the context of an ethics complaints, but if there is a problem with the word, "prosecute," --

MR. SHECHTER: Represent the interest of the public. You will find the right word.

THE CHAIR: Mr. Meyers, if you could – we're certainly going to get this thing back. If you can draft the language, you know the intent.

MR. MEYERS: Yes.

THE CHAIR: Do members still need time on h, 1, 2 and 3?

MR. FINK: Move approval.

THE CHAIR: It's already been. Members in support of adopting h, 1, 2 and 3 signify by saying, aye. Any opposed, same sign. Motion passes. I?

MR. WOLFE: Move adoption, Mr. Chair.

THE CHAIR: Moved by Mr. Wolfe. We're moving and second and we will discuss like we have been doing the entire time. Moved by Mr. Wolfe, second by Commissioner Shechter. Any discussion?

MR. FINK: Time.
THE CHAIR: Members have minutes.
MR. FINK: Point of clarification. Andy, on page 21, line 21, instead of the words selection and oversight committee, which I think some people are saying might be confusing two different committees, couldn't we just put a hyphen there?
MR. MEYERS: Sure. If you want me to do that throughout that's fine.
THE CHAIR: I just think it reads cleaner that way, it's talking about one. And it can be interpreted as two groups.
MR. MEYERS: You want a hyphen or a slash? Is there a preference?
MR. FINK: No. A slash would be either or. So a hyphen is appropriate. It's the Selection Oversight Committee.
MR. MEYERS: Whatever you all want.
MR. FINK: If you put a slash it becomes, applies either or.
MR. MEYERS: Fair enough.
THE CHAIR: Members okay with a hyphen versus a slash?
MR. FINK: You can call it a dash.
THE CHAIR: You can call it what you want.
MR. WOLFE: Call the question, Mr. Chair.
THE CHAIR: Ms. Rorapaugh.

MS. RORAPAUGH: On lines 22 through 24, why didn't we strike that language?

MR. MEYERS: It was restructured. It's put back I think at the end. Just so you all know, the reason it was restructured is it's sort of a strange process because it's a public hearing, which I guess is a good idea, but it's not just a normal meeting, so that we had to do a couple of things to try to make it work.
MS. RORAPAUGH: And you believe this provides the due process necessary?
MR. MEYERS: I think much greater than what was in there. I think it's sufficient.
MR. WOLFE: We voted on this last meeting.

MR. SCHERER: The hearing is a public hearing but the investigation of the Inspector General is, I believe exempted from the Sunshine Law requirements of 112 under subparagraph N, being work product of an investigator, you don't want that to become public until such time he or she files the charges. Does that state that here?

MR. MEYERS: It states it earlier in the document, but – yes, I think it does. Is your question that at a public hearing we're only talking about now for purposes of considering removal of the Inspector General.

MR. SCHERER: No. I meant –

MR. MEYERS: Confidentiality, absolutely. I think earlier in here it refers to designates the Inspector General as whatever the title is to be covered by the statutory section. It says it's confidential until whatever the point –

MR. SCHERER: Wouldn't his or her removal be the same?

MR. MEYERS: I don't think that confidential information – first of all, it wouldn't be disclosed, so that wouldn't be the cause for –

MR. SCHERER: I'm just making sure it's open to the public. Meeting or hearings that they have, or things that they have, the Selection Committee relative to the Inspector General's removal, ought to be open to the public including the charges.

MR. MEYERS: I'm just a little confused. I want to make sure I understand. There were charges that the Inspector General believes – we're talking about where the Inspector General is being considered for removal –

MR. SCHERER: Correct.

MR. MEYERS: That would be a public hearing. Yes.

THE CHAIR: Line 24 on -- addresses that specific. It doesn't say whether it's public, but that's what we're talking about. Section 24 on -- is related to the Inspector General being removed by the Selection Committee.

MR. MEYERS: And it does say starting on line 20 about removal shall be considered at a duly noticed public hearing of a selection-oversight committee. Dash.

THE CHAIR: All members in support of approving section I as amended signify by saying, aye. Any opposed, same sign. Section 2, a 1 through 5.

MR. FINK: Point of personal privilege.
THE CHAIR: Mr. Fink.

MR. FINK: I understand the Chair is right to limit public input, but I'm looking at the clock and we know we have another meeting, I'm suggesting that if somebody came in, because we did change without publically noticing the change in time –

THE CHAIR: We did publically notice it.

MR. FINK: 8:00 o'clock.

THE CHAIR: I will be glad to open the floor when we finish if it's the will of the members. Right now let's continue to move with our draft. Section 2, a, 1 through 5.

MR. WOLFE: Motion to adopt, Mr. Chair.

MR. SCHERER: Second.

THE CHAIR: Motion by Mr. Wolfe, second by Mr. Scherer. Any discussion? 2, a, 1 through 5. Goes from page 22 to 23.

MS. RORAPAUGH: Sorry. On page 23, line 1, section 5 -- actually line 2. Should we – we had pulled that language from the local Bill and what I would say to fund the -- promote Broward County to fund and promote ethics training and education and to defray costs of the Inspector General's Office, and or defray costs for the Inspector General's Office.

MR. WOLFE: I thought we brought that up last week.

MS. RORAPAUGH: Did we?

THE CHAIR: Yes. We talked last meeting and said they have to fund it, let them decide how they're going to fund it. This document is clear that they have to fund it.

MS. RORAPAUGH: I think my problem is we may end up with half a million dollars for ethics training sitting in an account that is untouchable for General Revenue purposes.

MR. WOLFE: This exact point – I think I brought it up last meeting, or we both did -- it was cited that this document already calls for the funding, obviously talking about the surcharge, of possible surcharge possible fines, all of that, they have to pay for it, and I'm sure they're going to use the funds.

MS. RORAPAUGH: I understand.

MR. SCHERER: Why don't we just take it out?

MS. RORAPAUGH: If we put them in a very specific account, if that account -- there may only be $250.00 in that account for the next 20 years, but say there is much more -- because we're talking about restitution also -- do we want to allow the policy makers or I.G. to assess those funds?

THE CHAIR: Ms. Rorapaugh, are you asking for a friendly amendment to strike 5?

MR. MEYERS: No. You want to add to 5, a few words at the end, say, or to help pay for the cost, defray the cost of the Inspector General Office.

MR. SCHERER: Why don't we strike 5?

MS. COWARD: Who made the motion?

THE CHAIR: Mr. Wolfe.

MR. WOLFE: If you're going to – don't debate something, say, I want to say, do this.

MS. RORAPAUGH: I did. I did offer that.

MS. COWARD: I would offer a friendly amendment to just delete number 5 all together and that would accomplish the goal and not limit it to a certain fund.

THE CHAIR: I believe so.

MR. WOLFE: I will accept that.

THE CHAIR: Mr. Wolfe accepts that amendment. All members in favor of passing Section 2, a, 1 through 5, signify by saying – with the amendment --

MR. FINK: 1 through 4.

THE CHAIR: I apologize. 1 through 4, striking 5, signify by saying, aye. Any opposed, same sign. 2, b and c.

MR. WOLFE: Move to approve, Mr. Chair.

MR. SHECHTER: Second.

THE CHAIR: Moved by Mr. Wolfe, seconded by Mr. Shechter. Any discussion?

MR. WOLFE: (Inaudible.)

MR. FINK: We would like to add the word, "flogging."

THE CHAIR: Are you being serious?

MR. SCHERER: Call the question.

THE CHAIR: All members in support of adopting Section 2, b and c, signify by saying, aye. Any opposed, same sign. Any language issues with Severability Inclusion in Code or Effective Date?

MR. WOLFE: Motion to approve.

THE CHAIR: Motion to approve by Mr. Wolfe, second by Mr. Scherer. All members in favor signify by saying, aye. Any opposed, same sign. Let's recess for five minutes. Ten till.

(Recess was taken from 10:43 a.m. to 10:53 a.m.)

THE CHAIR: I'm calling the Broward County Ethics Commission back to order. A couple of things, some housekeeping. Obviously I don't feel at this point we need to call a vote on a document that has just gone through some significant amendments; does anybody feel different?

MR. WOLFE: What are we looking at as far as a timeline for Attorney's Office to review to make change, the changes back? I'm ready to "rock and roll," we have to review the document one more time.

THE CHAIR: Mr. Meyers said within a day or two he could have this document back to us, so we will set a meeting that we can reconvene. There's a couple dates that we have to keep in mind. We have the 23rd that the County Commission meets again. If we want to give the County Commission -- and that is not our deadline -- this is simply a thought, if we want to give the County Commission a document that has been voted upon by this Commission prior to that 23rd meeting, we're going to have to schedule a meeting either some time next week or vote

some time next week and whatever comes after that. The deadline for the agenda for the second meeting and that is the Charter mandated deadline, to get to them on that agenda is, Ms. Cepero --

MS. CEPERO: February 24 is when we print.

THE CHAIR: So either way we have to meet before then if we don't try to get them something by the 23rd. With that being said, there was a legal opinion that we asked for prior in terms of adding the language, the layered language that Mr. Scherer recommended and we supported -- Mr. Scherer, do you need to speak before I call on Mr. Meyers for that?

MR. SCHERER: Yes. We have another issue also. Mr. Meyers and I have been conferring about the lack of enforceability to our layered opinion or layered language, and -- which brings another issue to the -- that we got to talk about here. If the Commission that is working on the Inspector General language, and the language of its Resolution or Ordinance that applies this Code to staff, as we speak, and if the County Commission votes by a majority to pass an Ordinance that is ours' plus some provisions that are even more strict, seems to me they ought to be able to do that. And I don't think it's our intent to try and hamstring them they wanted to take our draft of the Code and go beyond it. We wouldn't want them to "water it down," but go beyond it and make it more strict, I think we would encourage them to do that. We don't have a procedure to do that yet, so I wanted to kick that out, number one. And then number, in thinking about, after Mr. Meyers had me thinking, you don't really want to put an Ethics Code in a Charter because ethic laws change all of the time

because the capacity of people to figure out how to get around things is pretty infinite. Especially who would have ever heard of e-mailing with pin numbers or something to avoid public record, that kind of thing So it has to be an adaptable, more adaptable, than a Charter, it has to be. It has to be probably by Ordinance, and that was probably wise thinking on behalf of whoever did that at the time. So I'm a trying to think about that, but we could put enough language in there, that you know, would make it pretty unpalatable for the public if the Board ever decided to do something to "water this thing down," so that is on my mind right now.

MS. RORAPAUGH: I think they're all excellent points. I think if we can come up with protective language for this as a base document, and if the County Commission chooses to make it -- create a more stringent set of rules, they can pass a subsequent Ordinance. That would be -- if they're going to rescind it, it's going to be by subsequent Ordinance, if they're going to improve it, it will by subsequent Ordinance. And you're right Commissioner Scherer, when legal counsel said, do it by Ordinance, that was the reasoning behind it, was the new technologies, and the changing of what we perceive as citizenry as to what is ethical and what is not ethical. And number three, if the County Commission decides to pass this and the next day rescind it, at that point it does become a matter for the voters to take care of. We can only do what we can do, and there is a "political price that will be paid." And that some of us will get very involved in that "price tagging," and some of us will not, but ultimately if we can pass this by unanimous vote it will send a message and it create a

framework that I believe our current County Commission will embrace, will pass unanimously themselves, and will live under, and it will make it very difficult for subsequent County Commissions to "water down," obstinate or do away with.

MR. WOLFE: If they want to do something in addition on top, they can do another Ordinance, because the way this is set up, I wouldn't want them tampering with this Ordinance in any way, shape, or form. And I don't believe they would do anything stricter than this Ordinance in their life times. I look forward to moving this process along. I would hope we can get this document back as soon as we can and pass this early next week; whatever dates; everybody convenient -- maybe we should do something at a 5 o'clock meeting where more of the public can attend or something. Whenever you guys are available.

MS. COWARD: I was going to support Mr. Scherer's recommendations by the Ordinance – obviously it came form someone else. As relates to the County Commission having the power to pass another Ordinance that's more strict, I don't see why we need to address that. In my opinion they already have the power to do that. I don't think we need to do anything to give them that power.

THE CHAIR: In an effort not to hamstring them and go along with what you said, Mr. Scherer, can we put some language in that says that they may amend if that amendment makes it stronger or by change in law. That way we're still protected being changed unless one of those two conditions happen, as what you said. We can't hamstring them if

the law changes, it needs to be amended. If they come up with something -- and I would agree with Mr. Wolfe -- to make it stronger, well then they can do that, but other than that they can't touch it. Would that cover what you're --

MR. SCHERER: Yeah. I disagree with Mr. Wolfe. And we haven't disagreed at all until now. It's pretty good to do that after a year, because I can pretty much pick a fight with anybody. But I think in this Commission we might be surprised after we give them this, that they might even make this thing stronger, and to the extent that they do, and it changes some of the provisions that we put in there, I think they ought to be at liberty to do that. And in addition as we go forward here, of some of this becomes unworkable, unmanageable, and if there needs to be a common sense change, they ought to have the power to do that and not tie their hands, things that we can't see. So I would like to try to put some kind of language in here that gives them the right to do that. "Thou shall not water down, but thou shall make it stronger if you want," if you are permitted to make it stronger. Now I know those are –

MR. WOLFE: (Inaudible.)

MR. SCHERER: I understand that that is why we have legal counsel over here to draft it.

MR. WOLFE: I would think it all depends what your definition of "if," is. I, being a kid in the legislative process, I just, you know, if they want to make something stronger, if they want to address

another issue that we neglected, or correct something, they can do that with the Ordinance.

MR. SCHERER: But if it conflicts with this, we wouldn't –

MR. WOLFE: They can do it by Ordinance any day.

MR. SCHERER: I understand that, but that Ordinance says – would change our Code then, wouldn't it?

MR. WOLFE: That's their prerogative right now. We're doing the best project we can do right now. Our job is to say, "look in the mirror," and say we did the best job we can and hand this document to the Commission and the voters of Broward County and we're done.

MR. SCHERER: Yeah, but no. I'll tell you what, if they change something and make it stronger then it's not the same and then it will go to the voters for approval –

MR. WOLFE: Can I use an example?

MR. SCHERER: Sure.

MR. WOLFE: I don't mean to be disrespectful, but if you want to revisit the campaign manager situation again go do it with another Ordinance. We don't need to revisit other issues.

MR. SCHERER: What if they want to do that, what if they think I'm right and you all are wrong?

THE CHAIR: Order. We have people in queue.

MR. SCHERER: I don't want to reargue that. So if they agree to do that and they make it, what I consider to be stronger, and because they perceive it to be a real problem, and the majority of them

want to do that, and they pass it, and then we have a situation where our weakened form is going to go to the voters along with their –

MR. COLLADO: My feeling on this matter is that we, as a Commission have spoken. This is our opinion, this is our idea, and we presented to the Commission and to the voters to try to draft some language to protect what we have done. I just think when there's a will, there is a way, and there will be a way of getting around it. But I think we did the job that we were sent here to do; particularly in my case without feeling that there is an ulterior motive to change this in the future, and if they do, there will be the appropriate consequence for trying to, you know, trying to overcome, or circumvent what we expressed in this document. And I don't think there is any language that we could put in place that could prevent that from happening. We spoken, we did what we were sent here to do and here it is.

MR. SHECHTER: Bill, when you said a moment ago that revisiting the language that we talked about earlier, you said what I consider to be stronger. So now it becomes a question, is it stronger or is it not stronger. And that -- almost defies definition as to what is stronger and what is not stronger.

MR. SCHERER: More restrictive would be stronger I guess. What we consider, what anybody considers, what objectively could be considered; I think any more -- anything that is more restrictive, we could put in that language.

MS. RORAPAUGH: Mr. Meyers, I'm going to ask you a question after this. My understanding is the process is the County Commission will be presented this document and they can vote it entirely up or entirely down. If they vote it up it immediately becomes Ordinance. They can, at that point, or any time in the future, add additional things to that Ordinance. If they vote it down, that is when it goes before the voters. They cannot amend or add but they can place more language on the ballot which they do every election, for Charter changes, et cetera, et cetera. I think that the County Commission has many, many avenues to strengthen this Ordinance, but we're presenting them a framework that they will have to "pay and live the price to water down."

MR. SCHERER: I think that is a really good point. A point of legal clarification. If we -- after we pass this Ordinance and give it to the County Commission, and if they adopt it, then it becomes law, it becomes an Ordinance; then if the County wanted to change a position -- a provision in it, they are at liberty to do so. We didn't -- we wouldn't want them to be able to "water it down," the next meeting, or a year from now, or ten years from now, but we want them obviously to have the flexibility, which they do, to make it more stringent. How do we do that?

MS. COWARD: I was going to move that we proceed with the Code in its current form and move to a Resolution next week without any additions.

THE CHAIR: There is a motion on the floor. Is there a second?

MR. WOLFE: Second.

THE CHAIR: Second by Mr. Wolfe. Ms. Rorapaugh.

MS. RORAPAUGH: I do recall – not togo back to the question – but I do recall that earlier this week we did discuss any changes to this Ordinance would be by a super majority vote of the Commission, that was discussed, and I thought we by consensus said yes to that.

MR. SHECHTER: This morning.

MS. RORAPAUGH: So if that language is in here that is the protective element to this Code of Ethics, but it also means the super majority to improve it. So – this particular Ordinance, but a new Ordinance they can do what they want.

THE CHAIR: And that is why there was a motion -- we directed the County Attorney to give us an opinion on that layering to protect them from doing that.

MR. MEYERS: Yes. And these are very complex legal issues, but I had some very qualified lawyers take a preliminary look at it. We do not believe that we would have enforceable provisions to either -- I think the two parts were one, prohibit the County Commission from modifying the Ordinance once it's enacted, except as allowed by the voters; essentially an initiative or referendum or secondly requiring a super majority. We have legal concerns about both, about them being enforceable. And I can explain why if you want, if that is important, but it's not an extraordinarily clear legal issue, it's will require a lot more research,

but our preliminary analysis is while we could include them, they may not be enforceable.

THE CHAIR: I would like to ask for a clarification of the motion. This wouldn't be the first time this Commission heard counsel's advice and said, well, let's do it anyway and if they challenge it, they challenge it. Ms. Coward, when you moved this in its present form, were you talking about including the amendment that we asked for clarification on or without that amendment, the one that Mr. Meyers just opined on.

MS. COWARD: I didn't hear it. I didn't hear the amendment, I just heard discussion. I didn't hear the amendment. What was the amendment?

THE CHAIR: To include language in here that would require any changes to go to the voters in the form of referendum and/or super majority.

MS. COWARD: I don't know – that wasn't my -- I didn't hear that discussion. That wasn't my –

THE CHAIR: You're just talking about moving this.

MS. COWARD: -- whatever decision is made up to this point, today, all prior decisions move forward from that point on.

THE CHAIR: Everybody clear on that motion? Any further discussion? All members in support of passing this Code in its present form with the amendments we discussed and voted on –

MR. MEYERS: Did you formally get a second?

THE CHAIR: Yes, there was. Signify by saying, aye. Any opposed, same sign.

MR. SCHERER: Nay.

MR. FINK: Nay.

MS. RORAPAUGH: We just passed it? So no more maybe?

THE CHAIR: Well, no. With the amendments we have to come back and do a final draft review and then we're going to –

MR. SCHERER: That is not what you just voted on.

THE CHAIR: I'm good.

MR. WOLFE: We're done.

MS. RORAPAUGH: Was that the understanding of the Chair, and was that the understanding of –

THE CHAIR: Well, I thought we agreed earlier that we would vote and then come back in its (inaudible) but we're not going to vote again.

MR. MEYERS: Just for clarification purposes, because I think it is important. What I understood that vote to do meant there was not direction to draft that additional language that was being discussed, or any other language, make the changes that have been discussed here before today and present it to you – get it out hopefully Monday and have a meeting early to mid week where you can finalize.

MR. SCHERER: Point of order.

MS. RORAPAUGH: My understanding on the -- even though legal counsel says it may not be legal, we already discussed and passed and requested amendment language, appropriate language to do the layering that Mr. Scherer was speaking of. We had that vote earlier today. So that is part of this package.

THE CHAIR: I agree. That is why I asked.

MR. SCHERER: Point of order. I think you're previous vote is illegal. I don't think you can stop the majority of the Commission until we finally vote and adjourn from amending anything in this, because I believe the majority of this Commission has the power and right to do that, and notwithstanding the vote you just took. So that unless we're adjourning and this is done, which we're not, this is still open.

THE CHAIR: Did I miss that we just had a majority to move in the direction that we voted to move?

MR. WOLFE: That is what happened.

MS. COWARD: That is exactly what happened.

MR. SCHERER: And I challenge your – that vote is an illegal vote.

MR. SHECHTER: I have to say that if that – if that is what the intent was I misunderstood. And I would like to move to reconsider so that having it explained as you just did, we know what we're voting on. Is there a second to the motion to reconsider?

MR. FINK: Second.

MR. WOLFE: Move. You voted against.

MS. RORAPAUGH: I will second it.

THE CHAIR: We have two presiding members that have asked to reconsider. It's a motion and a --

MR. SHECHTER: If we could clarify what it is we're voting on, then I think whatever the vote is, it is.

THE CHAIR: Ms. Coward, would you either re-clarify your motion, or would you like to amend your motion considering some of the comments which would be – or the concern which would be to include that layering language that we had discussed? And if you need Mr. Meyers to clarify that, because I think you're saying you weren't here for that part of the discussion.

MR. MEYERS: Yes. I'm going to include Mr. Scherer's concern with the layering language, which I think is part of it now. In terms of any subsequent action by the Commission to let's say, weaken what is going to be passed here, and if they're going to vote upon and presumably be enacted by either the Commission or by the voters ultimately, they can only do that – well, I guess the first part of it is, the first sentence would say they don't have the power, the Commission doesn't have the power to weaken it, it could only be done by referendum but by the voters. Second part would be in essence recognizing that that may not be legally enforceable; if that is not enforceable then it can only be amended in a weakening sense by the Commissioners upon a super majority vote, which I would assume you mean six members of the Commission. The twist on that is Mr. Scherer was concerned that if you don't qualify that in any way

then you also prohibit the Board perhaps from enacting something which strengthens it, so to just make clear that the referendum is required, or if that doesn't work, that the super majority is required only to weaken what is contained in the Code, recognizing that weakening may be a subjective term.

MS. COWARD: Point of clarification. So this morning the Commission voted, or by consensus decided to add it such they couldn't weaken it without referendum or by super majority; and that is how it existed up to this point?

THE CHAIR: We voted yes.

MR. SHECHTER: Just to follow up on that, what I would like to do and I think that is what we agreed on earlier, I want to see the language, the new language before I vote it up or down. I don't know that I will agree with everything Andy Meyers writes; so until we have a final draft in hand; how can we vote this thing and no further meetings? I don't think any of us should --

MS. COWARD: For me I don't have a problem with us coming back here again and looking at the language and make sure the language is consistent with our intent. My concern would be us coming back here and re-debating and re-discussing –

MR. SHECHTER: No. No more debate.

MR. COWARD: (Inaudible.) Review it for us, make sure it is consistent, just the language. To me grammatical type stuff, but not content, not to change intent. So my motion was to move it forward in this

current set, with all the amendments made and then for intent and only to change wordsmithing where necessary. That was my intent.

THE CHAIR: Hold on. We have a motion and a second that we voted on that the Chair believes, and unless legal feels different, was a legitimate motion and it passed. There was a motion and a second from two of the presiding members of that vote to reconsider and now we have got clarification on that issue of what Ms. Coward meant by the motion. We can do one or two things, and again, Mr. Meyers, if I'm wrong in any of these, I need you to correct me. We can either accept that understanding of what you just voted on or we can ask Ms. Coward to restate her motion and withdraw her first motion, restate her new motion with the explanation, see if there's a second and we can vote again.

MR. MEYERS: I think it's an important enough point that the motion made ought to be seconded and voted upon as restated.

THE CHAIR: Is there any support to -- for Ms. Coward to reconsider her – well, there is a motion on the floor right now to reconsider.

MR. SCHERER: Point of order.

MR. WOLFE: We're going in circles here.

MR. SCHERER: I would like to ask legal counsel whether or not this -- I presume this is a motion for closure of the debate; I think that's the --

THE CHAIR: That's not the motion that's on the floor.

MR. WOLFE: That is not the motion at all.

MR. SCHERER: But that is what it is effectively doing.

You have items that are open and I don't know that that's a legal vote that would bind the rest of us – that's my legal question.

THE CHAIR: Mr. Scherer, the motion on the floor is to reconsider the motion that we just voted on, and if there is a majority of that that motion is null and void, if there is not, then we can ask Ms. Coward if she would reconsider an amendment to her motion with the clarification to let the members vote again which may bring us back here to look at final language. But there is a motion and a second on the floor that is legitimate. Is there any further discussion on the motion to reconsider by Commissioner Shechter and seconded by Ms. Rorapaugh?

MR. WOLFE: No.

THE CHAIR: All in favor of that motion to reconsider signify by saying, aye. Any opposed, same sign.

MR. WOLFE: Nay.

THE CHAIR: Motion passes. Would you like to restate your motion with the clarifying language for a second?

MS. COWARD: I move that we approve the Code in its current content relating to intent and that we only reconsider wordsmithing to change that. I move that we proceed – perceive with the Code and its current intent with the modifications and amendments that we made today and that the only outstanding matters would be wordsmithing and not content or intent.

MR. WOLFE: Second.

THE CHAIR: There is a second to the motion. As a point of clarification before I open the floor to discussion, I want to make sure that I understand that, and that is to say that we're going to come back to review the legal language, we're not opening this floor to amendment other than correction or clarification of the legal language that is being amended. We're not going back and re-voting any new bills, new sections; is that the understanding?

MR. WOLFE: Yes, sir.

THE CHAIR: Any discussion on the motion and the second?

MS. RORAPAUGH: Under Roberts Rules can you do that? Is that legal?

MR. MEYERS: I'm concerned. Prior to the time you take a final vote on this, I'm concerned with closing it; however, I think you probably could have a requirement that any proposed amendments be prepared and submitted in writing to expedite it and considered in the summary fashion allowing a reasonable, all be it a limited amount of time for somebody who wants to advocate that position to advocate the position. So it doesn't have to be an "all or nothing." And I am concerned about completely closing – and again, I'm not an expert parliamentarian, but I am concerned about completely closing debate prior to the time you're ready to approve the Code.

THE CHAIR: Ms. Coward, would you accept that amendment? Okay. Mr. Wolfe.

MR. WOLFE: It's a given that any time you come back in a meeting you can revisit an issue. What we're saying is the intent of the Committee today is that we're trying to tell each of us and the colleagues and the public that we have set our parameters around the document. We are moving forward today. We reserve the right to come back and look at words and change words of course, and the Chair can always entertain a motion that is in order. What we're trying to do is tell a colleague or two that we revisited an issue or two, three or four times and we don't want to redo it again.

THE CHAIR: Mr. Wolfe, if I may, that was the intent of coming into today's meeting, and look what happened. So I would like to -- if that is what we're going to agree to this time, I would like to agree to that in some form of specific language, with maybe some specific time, because what is going to happen is this Commission is going to put the Chair back in a position to decide whether we have had enough debate, whether that is considered debate, whether we're inserting new legislation, or deleting current legislation, and we will be right back next meeting where we were today. We certainly came in with that clear understanding that we were going to either insert clear written language or vote it up or vote down, and certainly this has turned out completely different than that. So we can vote on that motion as made, either it goes up or down, or we can ask for a friendly amendment and change that.

MS. COWARD: I was just going to comment. In my desire to have this end and not to go on and on, at some point it has to end. Are

we going to have debate again next week and then there's a change that maybe next week, and then there's a change, and you have to go back and let staff and the attorneys look at it and put more documents in writing, we just keeping going, and going, and going. I think we have to end. To end means if we vote on it today, period, then I would even support that. But I think we need to move forward. And if we open it up to next week like we did today, we're never going to get any closure. So those are my sentiments. I will accept any friendly amendment that allows us to lead us further to closure, not anything up that would open it up for further debate and discussion.

MR. SHECHTER: With all due respect, we came here with the intention today of wrapping it up, but in fact by opening it up, we accomplished a great deal. And to say that we have now (inaudible) it for a year, if we have taken all of this time, I think we can take one more meeting to finalize -- let's get all the language in place. Let's see what it looks like, if we're satisfied we will vote it up. If we want to make some recommended changes, we will recommend them. This Committee will make the ultimate decision, and whatever happens at the next meeting happens. That will be our last meeting, because we have to submit.

THE CHAIR: I will respond to that. That is what we agreed upon for this meeting. We agreed that that is what we came in here today to do and now we're saying it's another meeting. So if I subscribe to your explanation, and I do, I hear what you are saying, we come in the next

meeting and we find ourselves having this debate at end of that meeting calling for another meeting. At some point "the party is over."

MR. SHECHTER: (Inaudible.)

THE CHAIR: Can I finish, please. At some point, one of us. Multiple of us, are not going to get our way on every issue. I'm not willing to "throw the baby out with the bath water," and in spite say, well, I'm going to vote against this entire thing. I debated several issues throughout this year that I agreed upon and that I disagreed upon and it's moved forward. At some point, "the party is over." And when is that point without clear clarification before we call another vote only to be changed next meeting. We have a deadline, and I don't care if we deliver this past the time that you have the agenda. The Charter as I read it, doesn't say, it has to be to the County to get on the agenda in a final form -- it says they must have it by that March 2nd meeting. And I'm okay with that. I don't care if we have six more, but let's not kid ourselves and say, well, the next meeting is final – meeting without clarification in a vote, not an agreement, because that has changed. And we will go through this same exercise next, and it's not -- it's not a process that we should consider to enter into. So with that being said, I believe Ms. Rorapaugh and Mr. Meyers.

MS. RORAPAUGH: Mr. Chairman, you have done a great job and I know all of us are people with strong opinions, and overly strong desires serve the public, and the public's wants and desires in this Commission. I think though under Roberts Rules of Order, the type – what we were just about to vote on, I'm not sure passes muster, but I do know

that if this does not pass, and we show up next week for a final vote, and a Commissioner decides to bring a new issue to bear, we will have a right at that point to vote yes or no to take that amendment. And that is ultimately what Roberts Rules of Order do, that is the protection. It still allows for debate, but also allows the majority of the will to close down debate and not accept those amendments. So it's frustrating for many of us at the table, I know, but I'm not -- if we can legitimately close down all debate on issues for next week.

THE CHAIR: Before we go to Mr. Meyers, I need a motion to extend the meeting.

MR. WOLFE: So moved.

MR. FINK: Second.

THE CHAIR For 15 minutes. Moved by Mr. Wolfe, seconded by Mr. Fink. All in favor signify by saying, aye. Any opposed, same sign. Mr. Meyers, I want to give you the floor. I want to make sure the members understand, I've said to Ms. Brodsky that – the member of the public that is here to speak, she submitted her form that we would give her an opportunity to speak, so either we're going to cut this debate and call the vote prior to that so she has three minutes or we have to extend again. Mr. Meyers.

MR. MEYERS: I don't have much to say. I have only been here for one meeting so I don't know what you all have gone through, I can imagine just from a single meeting, but I say that – no, I say that with a great admiration. This is very difficult work and you're considering and

reconsidering things. And my point is, it was a goal to approve language only at this meeting, but there was some foundational issues that needed to be discussed, very important issues, and now those have been addressed, and there should be an adequate time for us to document that, to give you a chance to review that. Having said that, I want to say what Ms. Rorapaugh said, is accurate, until you're ready to approve this anyone does have the opportunity to present a proposed amendment, you can engage in debate on that, or you can decide that you don't want to debate, you heard it and it's over.

MR. COLLADO: The last center is exactly where I'm at. I feel that – and I agree with Commissioner Shechter, we had very rich discussion, we agreed on some things, disagreed on some others, and I'm prepared to have the vote and bring closure to this, and of course look at it (inaudible) and some modification to that extent, we're done.

MR. SCHERER: Point of order.

MS. COWARD: I was going to say, point of information. If we were to -- contrary to the motion that I made, if we were to instead vote to approve it in its current form, if there was a comma, if it's just wordsmithing, no content of change, you know, put a slash or dash, instead of "and," would that be prohibited that we vote it, to approve it in its current form today with that wordsmithing –

THE CHAIR: Mr. Meyers.

MR. MEYERS: It would not be prohibited. But again, it's definitional, and you can have an argument. Sometimes a comma makes

all the difference. I have a meeting at 1:15 today with people because a comma is in the wrong place and it may give us an argument, or prevent us from raising an argument. Mr. Scherer said something early on – take it for what it's worth, I'm only staff here. This is an important document, and I think this justifies a careful review by our office. I'm not saying we're going to be able to between now and Tuesday, reach definitive legal conclusions on the enforceability on every point in here, because it's a complex document. But certainly there are some things that may come to our attention that – like today, we may want to suggest – and all I would say, so this doesn't become an unending process, perhaps have a requirement that everything be submitted in writing, as was your intention today, you approve the document as presented when you next meet, or you make specific changes to the language with people citing the line and the exact language, just like the County Commission is going to have to do, vote it up, vote it down, and move on.

THE CHAIR: Precisely what we agreed to do today. Mr. Scherer.

MR. SCHERER: The vote that you are asking for that there be no substantive amendments or offerings at the next meeting is unlawful, and illegal. And I think counsel has affirmed that for you about four times. Unless you're going to take a final vote today and we're done, we come back in another meeting and we have the right to make substantive amendments. And I think what we're trying to see here is we're trying to prevent the one issue from coming back, that one issue being the issue of

lobbyists being able to run campaigns and then still represent vendors, and they're trying to forestall that coming back because they know that there is going to be a lot of pressure between now and the next meeting of it. So that is what that is all about.

MR. WOLFE: No. Point of order.

THE CHAIR: (Inaudible.) We're done, Mr. Scherer.

MR. SCHERER: Can I have the floor?

THE CHAIR: No, sir. I just stopped it. We're going to call the question. I'm going to bring this to a conclusion. I do take exception to your comment because it's inflammatory and it's accusatory, it has nothing to do – we're talking about procedure. Don't know what's coming back and what's not coming back. I agree after explanation of counsel that we cannot conclude a final vote without seeing a final document. I would ask that the members come back with the intent to hear any further points and simply vote it up or vote it down. If you don't feel -- if the majority doesn't feel we should debate further, it's simple, don't respond, don't second, don't respond, and we will get through this process. So at this time you can either withdraw your motion, or we could call the question, and we will come back as recommend by counsel

MS. COWARD: Based on legal counsel's opinion, I will withdraw the motion.

MR. WOLFE: Withdrawn.

THE CHAIR: Thank you. And the second is withdrawn. At this time, I'm going to open the floor for public comment. Ms. Brodsky.

MR. MEYERS: Mr. Chair, may I mention one thing?

THE CHAIR: Yes, sir.

MR. MEYERS: I was reminded by the gentleman in the back that Monday is a furlough day for us, legal holiday that the County normally doesn't observe, but our staff is actually precluded from working.

THE CHAIR: I wouldn't be able to make Monday, I don't know about the majority –

MR. MEYERS: I'm not saying for a meeting, I'm saying for work. I'm going to try my best to get it done today and perhaps even tomorrow, if I can, starting Sunday.

THE CHAIR: Can we agree that you'll get it to us no later than Tuesday?

MR. MEYERS: Absolutely.

THE CHAIR: Okay. And we'll schedule after that. Ms. Brodsky, thank you for joining us. I'm sorry you missed public comment this morning. I have 11:35. You have three minutes to address the Commission.

MS. BRODSKY: Okay. Thank you for giving me the opportunity to speak right now. I'm the founder also of the Broward Election Reform Coalition. And I'm coming here with those "hats," as well. I just want to say, this is the first – today, this morning, here I see the final draft here of your Ordinance, and I think that the public needs an opportunity to have the same kind of debate that you're having here. I have been so impressed, I've been watching you on the website, on the

Broward website. I have been so impressed by the intelligence and due diligence you have taken in dissecting all the different areas here that deal with ethics and public government. It's been extraordinary and your effect has been revolutionary. As far as the Broward County Commission, them even considering such dramatic changes at Commission meetings to vote on -- this is an extraordinary thing. I just want to say, up until this point ,it's been us citizen "watchdogs," who have assumed the role of Inspector General only to be derided as disruptive or gad flies, or nuisances. There's nothing more important for public -- in government to serve the public with transparency, accountability, and inclusion in the decision-making process. And to have an Office of Inspector General that will advocate on our behalf is the first step toward that. We haven't had that in Broward County. Now I just want to give my experience here with the – my main problem with the Ordinance as I see it today -- and it's a big problem, it's a "big elephant." In the beginning there were discussions about including all government agencies as far as the scope of Inspector General and the ethics. And somewhere I don't know where it happened, where it got lost, but I can't start to tell you how critical that issue is. If you don't have the Inspector General have jurisdiction over all government agencies, you can have mass corruption in each agency. And I will give you examples, couple of examples. I have observed, over the years, the excellent work of the Miami Dade Inspector General. In 2003 he did an investigation of the Iveltronics (phonetic) that were purchased in Miami-Dade County. He did a total contract review and he also inspected the system itself, and he did the

scathing reports on the problems with the iveltronic, and he also made recommendations to the Supervisor of Elections is how to use that system, at least have a more efficient government, a more efficient election, and to severe the ties of the umbilical cord between the vendor and the County. That was extraordinary report. If the Inspector General of Broward County doesn't have the ability to reach out to all government agencies, we will never have any independent reviews of things like voting machines here in Broward County.

THE CHAIR: Ms. Brodsky, would you conclude your thoughts, please. Time is up.

MS. BRODSKY: What I want to say is it's very clear especially in the area of voting systems and Supervisor or Elections Department, from my experience, that I have been the citizen "watchdog," I have been the Inspector General, as far as even reviewed the contracts that had no performance bonds or any protection for the voters of Broward County. And I became "painted," as some kind of a deviant for trying to point this out to our government. So I want to thank you again for doing this. The fact that all the Commissioners appointed you shows the Commission can do the right thing, because you did an excellent job. And I want you to consider expanding the vote for Inspector General to all government agencies and also this whole document. Thank you.

THE CHAIR: Thank you, Ms. Brodsky. Any members have any questions.

MR. WOLFE: Hopefully that is what the local Bill will do.

MS. BRODSKY: What's that?

MR. WOLFE: Hopefully that is what the local Bill will do – (Inaudible.)

MS. BRODSKY: It's a waste.

MR. WOLFE: Thank you for your time.

THE CHAIR: Members, we need to set a meeting before we go on to anything else. If you will please look at your calendar and I will try to wrap that up with some "take-aways," within four minutes; if not, I'm going to need an extension for five minutes. We cannot schedule Monday, we cannot schedule Wednesday unless it's the evening. We cannot schedule Wednesday. Currently the availability is Tuesday and Friday.

MR. WOLFE: Do Friday morning.

THE CHAIR: That is the 19th.

MR. SCHERER: I'm not available.

THE CHAIR: Who is available on Tuesday, the 19th – Friday the 19th in the morning.

MS. RORAPAUGH: I will be driving back from Orlando really late at night.

MR. SCHERER: Can we pass around calendars like we have done before? Have Monica call around and see?

THE CHAIR: I don't believe we have the privilege of doing that at this time based on where we're going. So I move to set this before we leave today.

MS. COWARD: I think we need to reconsider, strongly consider Friday, whatever time, but I would be opposed – (Inaudible)

THE CHAIR: Wednesday and Thursday the room is not available.

MS. COWARD: Is there for Friday?

MR. WOLFE: How about noon?

MR. MEYERS: Chair, I mean, dependent upon having this room, is it possible --

MS. CEPERO: It's just a matter of a couple of things to consider; broadcasting and recording capabilities.

MS. COWARD: Can we modify the time that works for people?

THE CHAIR: Does noon work Friday?

MR. WOLFE: Cool.

MS. CEPERO: Not me. Somebody else.

THE CHAIR: Let me see some hands if noon works Friday. If you'll keep them up a minute. One, two, three, four, five, six, seven. Okay.

MR. COLLADO: I'm out of town. I can do it over the phone.

THE CHAIR: Okay. I don't know about Mr. Bakalar. We'll have a quorum if everybody can stick to noon on Friday the 19th. Mr. Bakalar?

MR. BAKALAR: I'm fine for noon on Friday.

MR. SCHERER: I'm out of town.

MS. CEPERO: Hopefully someone can cover it for me.

MR. FINK: Could you do it by phone?

MR. SCHERER: I would rather not.

MS. RORAPAUGH: What time do you get back, Bill?

MR. SCHERER: I leave on Thursday and I come back on Tuesday.

MR. WOLFE: Do it by phone.

THE CHAIR: That will give us two members by phone. Everybody else can confirm. Noon, Friday, the 19th.

MS. CEPERO: Until what time?

THE CHAIR: Noon to 3:00 is what we will schedule, and it should not take that long. Noon to 3:00 is what the scheduled time of the meeting is. If we need to extend that as we have today, we will do so. Ms. Cepero.

MS. CEPERO: I just wanted to thank the Commission. I will not be available on Friday, so I had prior medical issues going on, but I just wanted to thank you for allowing me to serve as your staff liaison. And I've enjoyed the rather lively discussion over the past year. So thank you.

THE CHAIR: On behalf of the Chair and the members, unless anyone objects we would like to thank you. We realize we have given you a ton of work on top of your ton of work that you have on a daily basis, and not just you, Arlene as well, and whoever else you pulled into the fold to get this done. I'll reserve closing comments for the County

Attorney staff, because we're going to come back, but to you and your office and your support staff, thank you, very much.

MS. CEPERO: Thank you.

THE CHAIR: We cannot approve minutes because we don't have them. They will be posted – we can do that next meeting, I'm going to have another meeting. We just won't be able to approve the final. We are out of time. Motion to adjourn.

MR. WOLFE: So moved.

THE CHAIR: Moved by Mr. Wolfe, second. All in favor signify by saying, aye. See you all later. Thank you.

(The meeting adjourned at 11:43 a.m.)

BROWARD COUNTY ETHICS COMMISSION

February 19, 2010

MEMBERS: City Commissioner Neal de Jesus, Cooper City - Chair
PRESENT City Commissioner Carl Shechter, City of Pembroke Pines - Vice Chair
Howard Bakalar
Alfreda Coward
Kenneth Fink
Robin Rorapaugh
Paul White
Robert Wolfe, Jr.

ALSO PRESENT: Pam Madison, Assistant County Administrator
Robert Teitler, Assistant County Attorney
Brad Seff, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the minutes of this meeting.)

An Ethics Committee meeting was held at 12:00 p.m. on February 19, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

The following is a near-verbatim account of the presentation:

COMMISSIONER DE JESUS: I'd like to call the meeting of the Broward Ethics Commission to order.

May I have roll call, please?

(Roll Call was taken at this time.)

I'd like to open kind of with a review of the agreement that we closed our last meeting with and coming into today -- sorry, Mr. Teitler.

MR. TEITLER: Before we start, I'd like to give the Court Reporter a copy of Exhibit 1, a copy of the controlling draft of the Code of Ethics we're working on this afternoon.

COMMISSIONER DE JESUS: Thank you, Mr. Teitler.

That is the final document that we all received, so there is no question which document we are working off and there is no confusion on what we voted for, and/or against.

With that being said, we left last meeting after much debate with an agreement that I would hope would encourage that all members stand by, and that was that we would come into today's meeting with the intent that it be our final meeting to have a cursory review of the language changes that were necessary for the final document and move for or against moving this forward to the County Commission.

I also feel compelled to reiterate the importance, I believe, in the message that we send as a group, to send this forth unanimously. I understand and respect everyone is certainly entitled to their own opinion and their own vote, but I believe that the process was quite lengthy and although we all fought at times for different issues that we believed in stronger than others, at the end of the day we seem to have a consensus to move that issue forward, so I just think that if we bear in mind what the residents called us to do and our work over a long year, hard to believe it's been a year, that we move forward collectively, whichever direction this group seems to go.

With that being said, I will open the floor. There's been changes made to the document. You have all received those changes. They are underlined or stricken through and I'm certain you had an opportunity to review them by now.

Are there any questions, comments or is there a motion to move the document?

MR. BAKALAR: I have one question.

MR. WOLFE: Should we have a motion to move the document first and open up the questions?

THE CHAIR: Yes, I believe, if we get a second --

MR. WOLFE: Mr. Chair, I so move.

COMMISSIONER DE JESUS: Moved by Mr. Wolfe.

MS. RORAPAUGH: Second.

COMMISSIONER DE JESUS: Second by Ms. Rorapaugh.

The floor is open, Mr. Bakalar.

MR. BAKALAR: I was discussing with Mr. Teitler the finer nuances of taking breakfast this morning. On acceptance of gifts because I was kind of unclear on this and I'm happy if it's the collective will of the group, certainly, but we're talking about the difference between a Commissioner going off as normal course of their business to a bagel breakfast, or whatever dinner, or a group versus group that does business with the county whose a vendor, just knowing that group that is a vendor of the county, they can not accept said bagel breakfast or dinner, but if they are not, they can -- just because I was unclear about it, but that is about it.

COMMISSIONER DE JESUS: Mr. Teitler, were you able to clarify that?

MR. TEITLER: Yes.

We discussed the differences between 1 A and 1 B, the real difference being the source of the gift or the food.

COMMISSIONER DE JESUS: Any other comments?

No other comments being heard, there is a motion to accept and approve the Code of Ethics ordinances as drafted. All in favor signify by saying aye. Any opposed, same sign. Let the record reflect there is a unanimous decision to provide a final document as proposed this morning to the County Commission.

With that being said you can't leave. We have 12:30 public comment on the agenda and to stay compliant with the sunshine and notice requirements, we need to adhere to that time and give the public an opportunity to be heard.

However I think this is a good time for us to take an opportunity as individual members to express any sentiments or comments you may have about this process in your assignment.

So Mr. Bakalar -- why don't we start with Ms. Coward and work our way around.

Ms. Coward.

MS. COWARD: Thank you.

First of all I just want to say, thank all the members of the Commission for all the hard work and time that you all have put in over the last year.

I want to give a special thanks, however to our Chair, for at times it got very difficult here. You have been able it maintain your demeanor and professionalism throughout this process. It's been a pleasure to work with you, individually, and the Commission collectively.

I also want to give a special thanks to our staff, Monica, in her absence, and Rob who has been with us throughout the entire process. I want to know how much I appreciate your presence in being here and answering any questions I may have.

I hope I get to interact on the Commissioners and staff again on another level after this.

Thanks, again, and good luck, everyone.

COMMISSIONER DE JESUS: Mr. Bakalar.

MR. BAKALAR: It has been a pleasure interacting with all of you. Even when we disagreed, it was always interesting and provocative discussion.

A special thank you to the Chair. You have done a fantastic job leading us through this process which at times was volatile. Staff was fantastic. Monica was great. Rob was fantastic, really, guiding us through expertly and as quickly as possible.

COMMISSIONER DE JESUS: Commissioner Shechter.

COMMISSIONER SHECHTER: It's hard to believe that we have been at this for a year and it's been a great year, an interesting year for me. It's a good thing we elected Neal as our Chairman, because he is the biggest guy here and had to defend himself a couple of times.

I just have to make a personal comment that I have met some really terrific people and enjoyed working with you, and the thing that I will carry away from this appointment is that a bunch of diverse people were able to come together and craft a document which far exceeds the expectations of most of the people in the public. I think we did a good job and I'm very proud of what we produced.

COMMISSIONER DE JESUS: Thank you, Commissioner.

Mr. Wolfe.

MR. WOLFE: Thank you, Mr. Chair.

I'd like to thank my colleagues. It's been an interesting year. It's very difficult to do something like this, especially when we're under sunshine and can't really talk a lot of these things through except in the public manner. I realize coming into this thing and leaving today, we have done a good job. I think we can look ourselves in the mirror, today and tomorrow and the next day, and say we did a good job and hopefully made a lot of friends. I will ask the attorney when this sunshine thing ends because I'd like to get to know each other a little better. It's interesting. This process is not going to be done today. I fully expect the Board; I would hope that they would accept this ordinance. I thought it was interesting, and now this topic is a cause celeb with a number of Commissioners, which I guess is a good thing. They can always attempt to strengthen provisions if they want; however, we still have to understand there is going to be a local bill up in Tallahassee this year. I briefly had a phone call with Representative Bogdanoff's office this morning. That is not going to go away. So I think we will all be watching that with interest, and I think it would be appropriate for those members who have other suggestions or other comments, to direct those to Representative -- before session and thereafter. I will probably at my own expense go up there at some point during session and see what the Bill looks like and maybe testify on it.

Beyond that, I hope what happens in November is that we don't get a bunch of competing ordinances or charter changes out there, but I think the public will be very versed to what is going on and they will do the right thing at the end, but I want to thank everybody. I know we have had some contentious meetings and some good discussions, but even with me, when I have had -- as you know, I'm opinionated and I have positions on issues and when the majority -- but the majority rules, and I for one

have always backed on it and moved this document forward to do the right thing, so I want to thank everybody for their understanding.

The Chairman has done a great job, and staff.

COMMISSIONER DE JESUS: Thank you.

Ms. Rorapaugh.

MS. RORAPAUGH: Thank you, Chairman.

I'd like to, again, thank the Chairman for handling a rambunctious group of opinionated people very well and moving a document to a full consensus that a lot of Broward political watchers expected to go down in flames. That is attribute to everyone who sits around this table, but particularly attribute to you. In 10 years this will still be remembered, and hopefully in 20 or 30 years it will. This is not the end of the road though, as Commissioner Wolfe so well put it, there will be a local Bill. There are other pieces of legislature in Tallahassee that are being looked at that would affect state office holders and local office holders.

I think we have had a discussion here that our policy makers in Tallahassee should pay attention to, should review. I think we have as normal people, so to speak, and as people with common sense actually looked at this as a document that any office holder could live under, that any seen senior county administrator could live under, and I hope the County Commission accepts this unanimously. I hope that they extend a good portion of these to senior level officials who work for county government as they have promised and intimated through earlier passages, and I hope this will eventually be expanded to all local elected officials in Broward County.

My final word is to the voters and to the citizens of Broward County. We came together, not because there were -- we came together and were authorized by voters in Broward County long before the current set of arrests and investigations began. We were put together by voters who said, in Broward County we can do better. We can have the strongest ethics. We can have the most open government. That is why we were empanelled. This has been our response to that. Not a response to specific things that are happening with our local elected officials at this moment, but what the voters wanted and have said for the last 10 years that they would like. And I would say to the voters, hold your elected officials accountable to this. There is nothing in this Code of Ethics that is difficult. There is nothing in this Code of Ethics that should change anyone's life significantly, but it does give voters an opportunity to see what is going on behind every decision. That is the most important thing we have been able to do, add some transparency, so we have done our job.

Mr. Chairman, you have done a great job. Monica and Mr. Teitler have done wonderful work, but the real measure of our success will be if the voters in Broward County feel they have the best, most open, most ethical government in the state this time in two years.

Thank you.

COMMISSIONER DE JESUS: Thank you, Ms. Rorapaugh.

Mr. Fink.

MR. FINK: Well, first of all I would like to commend you for taking on a difficult task and handling it very well. I think you were a great moderator and good Chairman and you kept control of a rowdy bunch of people, none of us were more opinionated.

Rob, you did a great job just guiding us through this and I know there are times that we disagreed, and I know there are things in here that you say may not stand the test of time or law, but at least you were willing to accept what we were willing to do and you did it graciously and you did it very professionally, and although Monica is not here, I would like to commend her and her staff because she was just -- her help, her guidance was exemplarily. She made it very easy for us to go on. It's been fun meeting a lot of you people or renewing old acquaintances. I think we have accomplished a lot over the past year. I think we left one or two things undone, and possibly that will be addressed by local Bills and things like that, but by and large I echo what Robin said. We went far beyond what was expected of us and what people thought would come out of this Commission, and for that I'm considerably proud of the opportunity to have been a part of this and I myself have learned a lot, and that he is about as brief as I'm going to be.

COMMISSIONER DE JESUS: Thank you, Mr. Fink.

Mr. White.

MR. WHITE: Thank you, so much.

I'd like to say first of all, coming in at the eleventh hour, I'd like to give thanks to Monica and her staff in making sure I had the documents I needed so I would be able to fall into the process, and also like to thank Attorney Teitler. He made sure I had all the information needed. I appreciate them very much for that.

I'd also like to say it's an honor to be in this group of critical thinkers who wanted to make sure that the voters -- they have accomplished what the voters wanted, this

Commission to do, and it was an honor to sit here and to witness this process and be a part of it.

I'd also like to say that I saw democracy in progress. I learned a lot here today.

I'd also like to say that the leadership of the Chairman, that you did a great job. I saw how you kept everything in order, even when it got contentious at certain times, but you kept before us, what was our intended purpose, and I'd just like to say, I thank you so much, and it was an honor.

Thank you.

COMMISSIONER DE JESUS: Thank you.

Ms. Madison, on behalf of the County Administrator's office.

MS. MADISON: I appreciate the comments on behalf of Monica. She enjoyed working with you all. She is very sorry she couldn't attend the last meeting. Unfortunately she had an appointment out of the office. We will continue to work with you throughout the duration of the length of the Ethics Commission, whatever the attorney's opine that is, and anything you need, if you can't get with Monica, come see me.

MR. TEITLER: I want to thank you all for your kind comments and it has been a privilege to have been a part of this process. I appreciate it.

MS. COWARD: Could you inquire further about that date, when the sunshine provision ends for the Commission?

MR. TEITLER: Once it's approved by either the County Commission or the voters.

MS. COWARD: Okay.

MR. FINK: You mean we're still under the sunshine law until it's approved by the Commission or the voters?

MR. TEITLER: You still exist as a Commission.

MR. FINK: I thought we became defunct on March 2.

COMMISSIONER DE JESUS: If they approve it on March 2 we will. If they don't, it's when they approve it or when -- they have 180 days.

MS. MADISON: Just for clarification, and I'll defer to the attorneys, it's an ordinance, you would have to set a public hearing before it can be -- -

MR. TEITLER: It would be accepted on March 2.

COMMISSIONER DE JESUS: So they have 180 days until either they accept it or the voters accept it, we're under the sunshine.

MR. WOLFE: That is when the chairman has his barbecue.

COMMISSIONER DE JESUS: I will do that. Let me make some comments before we get to public comment.

It's been a privilege. It really has. I want to thank the Broward League of Cities for their confidence in me and in appointing me to this Commission, and thank you all for your confidence in making me the Chair. I will be honest with you, when I looked at the composition and knew that I wasn't representing a particular County Commissioner and each individual was, I thought well, it's going to be a nightmare and in my opinion, it was a fantastic process. I was surprised at some of the positions, because I knew the positions of the elected officials and they were contrary in many cases. I appreciate the healthy debate. I appreciate the professionalism in allowing me to do my job as the Chair, but it was a process that was extremely educational for me and one that I will

carry in my personal life and my political life moving forward, and I look forward to the day that this or something similar to this applies to me as a municipal elected official. I think it's the right thing to do and I will certainly, as I said in the beginning, support what we come out with at the local level, for my city, and I will continue to do that, probably the agenda after Tuesday.

So with that being said, there is -- I can't say enough for the cooperation that we received from the entire County Commission and their staff, working with us, the County Administrator's office, Monica and Arlene, probably felt like they had another boss in just dealing with me this year and providing documents and letters and setting appointments, etc., and they went above and beyond anything that I could expect them to do.

The Court reporters that were assigned and those in charge of AV, we have worn your fingers out I'm sure. Some of these debates were quite lengthy, and when you go back and read those minutes, they were fairly accurate in many cases. I wonder, did I really say that, but that is what the process is about.

The members of the public, not just those that have shown up here, any public forum in this community, and my experience as a public official, you don't have a large turnout of the public, although we know the public has a large opinion on a lot of these issues, but the phone calls that I received, the impromptu meetings in restaurants and other functions, where the public made it clear what their expectations were for this Commission. I value that input. And to each and every one of you, the Ethics Commission members, I respect your opinion. I respect the way that you represented that opinion, and although at times we would be foolish to say it did not get contentious,

but we were able to deal with it, manage it and move on without carrying it into the rest of the process, and I think that is what is important. I support this document as it stands. I could always what if it to death and wish it had one more caveat and one more sentence, but I think in it's entirety, we've made great strides, much more than I anticipated and I now trust the County Commission will perceive it as the will of the electors, not just of this Commission, because I believe that is who we represented, and that they will move forward in a manner that adheres to it and hopefully makes it better, and by better I mean even stronger, where necessary.

So my goal at the beginning of this was to sign my name to a document that I felt was reasonable and manageable, and I think this has accomplished both of those goals.

That being said, I thank you and although we're still in the sunshine, I hope not to reconvene you all again.

Mr. Fink.

MR. FINK: Is there a parchment version that we all have to sign?

COMMISSIONER DE JESUS: I don't believe so. I have a cover letter that meets all the legal requirements and we will send it on to the Mayor's office for distribution.

That being said, I still have a few minutes but --

MR. WOLFE: We have minutes to approval.

COMMISSIONER DE JESUS: We do.

I need approval of two sets of minutes from 2/10/10 meeting.

MR. WOLFE: Motion to approve.

MR. FINK: Second.

COMMISSIONER DE JESUS: Motion to approve by Mr. Wolfe, second by Mr. Fink. All in favor, signify by saying aye. Any opposed, same sign.

I also need approval of the minutes of 2/12/10.

MR. WOLFE: So moved.

COMMISSIONER DE JESUS: Moved by Mr. Wolfe.

MR. BAKALAR: Second.

COMMISSIONER DE JESUS: Seconded by Mr. Bakalar. All in favor, signify by saying aye. Any opposed, same sign. Minutes passed.

I'm going to open the floor -- there are members of the public here who wish to speak, and it will take us into 12:30, so I can start with those who are here.

The first card I have is Mr. Russell Rand.

Mr. Rand, you have three minutes to address the Commission. Welcome.

MR. RAND: Thank you.

My name is Russell Rand, former county employee. I think you all know me or no of me, and I commend all your work and I have been to a lot of these things that have gone on for the last 33 years or so.

I just skimmed over this. I have no idea what necessarily what is in here, but there is a lot of laws and rules that already exist that aren't followed really and that is the where the rubber meets the road and all.

As an example, listening to Judge Kaplan talk about the new Courthouse and there is asbestos in the building, needed $330 million whatever. I have still have the documents in my file from 78, 79, that they would spend 26 to $194,000 to remove it, which they did, and everything left is encapsulated, of course, and the county

environmental didn't spend $1 of it other than giving me a broom and shovel and saying you are going to do it or you are fired right now. So I see in your Inspector General, etc., can be removed for abuse of power, discrimination, ethical misconduct. That is great words, but nobody in the county is removed really for anything, and I have ample documentation of course. Every time I step forward and avail myself of the processes that already exist, I was whacked by the people in charge of these systems and that is a terrible thing and my father passed away yesterday, and when I was a kid he told me about people feeding at a public trough and all that, and numerous things. As he was dying, I said you were right all along, daddy. I've lived that nightmare. I've got these social security statements and the earnings, and I go from 48, 45, 43 to being fired for coming back from lunch early and then earning zero, then 2100, 4300, 2300. In five years I earned $8,000 and I get a pension that is reduced 30 percent because I'm 11 months short of the 30 years, and there is plenty of laws that should be medically monitored but are not, federal laws they don't follow.

COMMISSIONER DE JESUS: Mr. Rand, if you will complete your thoughts, please.

MR. RAND: And the doctor says I have COPD, pulmonary disease type thing. Here's 20, 25 years of working 29 years and I have a whistle and I would not pass that to anybody because there is nothing going to protect anybody unless people step forward, then the Inspector General has nothing to go on. Nobody can connect the dots and I can. Everything I have availed myself, the state ethics, the Governor, the FBI, the federal, all roads lead to nowhere. This is a local problem. A local cesspool. If you have another tool in the box, it's up to the county to do something --

COMMISSIONER DE JESUS: Thank you, Mr. Rand.

MR. RAND: -- and the taxpayers want them to do something and not do nothing.

COMMISSIONER DE JESUS: Thank you, sir.

MR. RAND: Because as I always say --

COMMISSIONER DE JESUS: Mr. Rand, you're out of time.

MR. RAND: I just want to finish.

COMMISSIONER DE JESUS: I have asked you on several occasions.

MR. RAND: As I said at the termination meeting, this is a house of cards and there is a hurricane that is going to hit here. It's going to be incredible.

COMMISSIONER DE JESUS: Thank you, sir. I'm sorry to hear about the loss of your father.

Former Commissioner Ted Mena.

MR. MENA: I appreciate your work.

COMMISSIONER DE JESUS: Commissioner.

MR. MENA: Thank you, sir.

I see Mr. Fink has my former chair, when I sat here two years ago. I'm just kidding, Mr. Fink.

I'm Ted Mena, a former Commissioner of Coral Springs, as of two years ago and a former member of the Charter Review, which by the way created you all, and I have a couple of comments I want to make and also for full disclosure, I'm also a columnist for the Forum newspaper and I'm writing some columns about things that are happening in the county.

I was concerned when I read Mr. Wyman's February 13 article about loop holes. I know what our intent was, and I have knowledge what we were looking for when I was on the Charter Commission, why this body was created, but I have some concerns. On the one hand I'm here to commend you for a great job. I know what it is. We sat two years, and I know what contentious means, but you know what, if people are not contentious because they are strong in there beliefs, then that means they are just rubber stamping or just here to warm up a seat, so it's good to have contention sometimes because then you have ideas to spread out.

My concern here right now is about your final draft which I'm familiar with. This is the second copy I have here.

My first concern is that in this particular draft, the severability clause can be changed, modified or eradicated by the County Commission, now or in the future. That should not be so. It's like giving the fox the key to the hen house.

My second concern is that seven of you voted to allow business as usual, to continue in this county when you defeated a proposal that would allow -- not allow, beg your pardon, not allow a County Commissioner to vote on any issue brought to the Commission by a former agent or aide of the Commissioner's campaign race. That concerns me. Come on people. Human nature being what it is, if someone had worked for you or helped you get the Commissioner's job, surely you're going to be beholden or influenced by their concerns for a particular individual. Apparently you haven't been paying attention what happened with Eggelletion, Gallagher or Salesman. If you believe that is not possible, I have some ocean view or should I say, lake view property. It's actually swampland in (inaudible).

So I'm concerned that you do the right thing here for the public. Here's what is I'm saying.

Broward County's proposed new Code of Ethics will not do anything to stop lobbyists from running the campaigns of County Commissioners and then pressing them to give county contacts to their corporate clients, and that should be a very important concern to you because that was the purpose of this body, in the first place, when we created it. You need to change this. And for this, it's not serving the will of the people who want this corruption, this scandal tainted local governments and self serving interest to stop.

COMMISSIONER DE JESUS: Commissioner, could I ask you to complete you thoughts please.

MR. MENA: Yes, sir. I'm going to do that right now.

COMMISSIONER DE JESUS: Thank you, sir.

MR. MENA: Lastly, I want to commend Stacy Ritter, or Commissioner Stacy Ritter for proposing to include a school district, local cities and other government agencies to come under the proposed new office of Inspector general, which by the way, I whole heartily endorse. This is showing true leadership.

I want to thank you for your great work. Good luck and thank you for listening to me.

COMMISSIONER DE JESUS: Thank you. Are there any other members of the public here wishing to speak? I have 12:35.

MR. FINK: Motion to adjourn.

THE CHAIR: Motion by Mr. Fink to adjourn.

COMMISSIONER SHECHTER: Second.

COMMISSIONER DE JESUS: Second by Commissioner Shechter. All in favor, signify by saying aye.

Mr. Teitler has copies of the final draft.

MR. TEITLER: We're going to go through it and make sure --

COMMISSIONER DE JESUS: It's the final proposed Code of Ethics; no longer a draft.

MR. TEITLER: We're going to go through it, make sure all the track changes -- it's just a matter of formatting it.

COMMISSIONER DE JESUS: That is the final.

(The meeting adjourned at 12:35 p.m.)

Verbatim
Broward County Ethics Commission
June 18, 2010

MEMBERS:	Commissioner Neal de Jesus, City of Cooper City, Chair
PRESENT:	Commissioner Carl Shechter, Pembroke Pines, Vice Chair
	Howard Bakalar
	Kenneth Fink
	Robin Rorapaugh
	Robert Wolfe, Jr.

ALSO	Monica Cepero, Assistant to the County Administrator
PRESENT:	Andrew Meyers, Assistant County Attorney
	James Rowlee, Assistant County Attorney
	Sue Gunzburger, Broward County Commissioner
	Charlotte, Greenbarg, Broward Coalition, Inc.
	Jean Russo, Real Time Reporter

(A sign-in sheet reflecting those present is filed with the supplemental papers to the transcript of this meeting.)

An Ethics Commission meeting was held at 9:02 a.m., on Friday, June 18, 2010, in Room 430 of the Broward County Governmental Center, Fort Lauderdale, Florida.

THE CHAIR: Good morning, all. I have 9:02. And I'm going to call the meeting of the Broward County Ethics Commission meeting to order. May I have a roll call, please?

(Roll call was taken by the real time reporter.)

THE CHAIR: Thank you. Welcome back, I guess. I was hoping not to see you all until the barbecue after we were sunset, but here we are. Before I open the floor to public comment, I want to make a couple of statements and lay out the ground rules for today's meeting. First and foremost, although as the Chair, I requested the meeting be scheduled; there were several requests for a meeting prior to me making that request. It's irrelevant. Any one of us can call a member at any time, but I just want to make sure that the record was straight in that a meeting was called, period.

Secondly, my intent for today is to simply seek clarification as to what happens now, get a true understanding of what the Commission did vote on in fact at Tuesday's meeting, and get a true understanding as to where we stand as an Ethic Commission in terms of legal representation. I have no other agenda other than that. And then so the County Attorney's Office is here represented by Mr. Meyers to answer any questions we have and make statements, but I also want to go on the record and say at some point, I'm not real comfortable with that, because there is a conflict. So while I value your expertise in the area, and I will certainly receive comment from you, and ask questions of you, I'm just not sure what to do with it after that, because you're representing the party that is in fact -- whether want to say, sue us or

sue the Code or sue -- it's a lawsuit. You can put all the "perfume on the pig you want, it's still a pig."

MR. MEYERS: Commissioner?

THE CHAIR: I'll give you the floor in a second. And someone is going to have to be named as a defendant, and once we find out who that is, then I guess I will have better direction as to where I feel I'm comfortable going as an individual, and then where we're comfortable as going as individuals and as an Ethics Commission. With that being said --

MR. WOLFE: Mr. Chair?

THE CHAIR: Sir.

MR. WOLFE: At some point when it's appropriate, I did discover some interesting information I wanted to share with the Commissioners and I do have legal comments I want to make directed at the County Attorney's Office.

THE CHAIR: Okay. Can we do that after public comment?

MR. WOFLE: Yes, sir.

THE CHAIR: So let's open the floor at this time for public comment. Are there any members of the public wishing to speak?

VICE MAYOR GUNZBURGER: Surprise.

THE CHAIR: Vice Mayor Gunzburger.

VICE MAYOR GUNZBURGER: Thank you for letting me address this August body. I was very surprised at some of the advice we received from counsel at our meeting on Tuesday, and I really truly believed what I was hearing and voted accordingly. Afterwards I had "buyers' remorse," but on the other hand I realized by voting with the majority I have retained the right to bring this up for reconsideration. So in a way, following the advice of our County Attorney doesn't prove to be so terrible after all. However, the next we will be meeting as a County Commission, rather than at a workshop is August 10th. And August 10th is the last day that we can make a decision on this matter without -- and if we fail to do so, it goes on the ballot for the voters. I have been anxious to see that second action happen because I have faith in the voters as well as in the some of my -- most of my Commissioners. I really wanted -- the work that you did I thought was excellent here. I approved all of your actions. I believe the voters deserve transparency and that they should have the right to have a Code of Ethics, which they voted for the Commission to establish for us. There was absolutely nothing in the doctrine that came from this Board or this Commission that I disagreed with. And when I reflected on what had transpired at the very end of a very long and arduous day, I decided that I needed to seek some -- to consult with some attorneys to see if I was wrong in my thinking or right in my thinking. Because I really think that we were now turning what had been a very good document, that it would be changed into something much less than what the voters expected of you to deliver to us. After consulting with some attorneys I presented a letter, I think that evening -- did I Drew --

MR. MEYERS: I believe so.

VICE MAYOR GUNZBURGER: Yes. That evening to our attorney, saying that I disagreed with the advice that he had given us, even though I wasn't an attorney but had consulted with attorneys, and that I cited case law that disagreed with his decision. As anyone who is an attorney -- and I think Commissioner Shechter is the attorney of the Commission, not of the advice -- you get two attorneys together and there are three opinions. And there is always case law --

MR. SHECHTER: At least.

VICE MAYOR GUNZBURGER: And there's always case law on either side, but I happened to have known that in my own city there was an Ordinance passed a few years ago, several years ago, that took the lobbying issue exactly as we wrote it, and wrote it for themselves, and it has stood for several years in the City of Hollywood without any one challenging it. So I did not think that that particular portion of the Commission's decisions were against case law and were unconstitutional. It was because of that and other reasons that I wrote the letter. I shared it with a member of your Commission, and I shared it with Mr. Newton. I believe in transparency, so I don't do things covertly. And I also shared it with the press because I felt it was important that everyone know what was going on.

I want the voters and citizens of Broward County to have faith in our government, and that is what I expected to get from you. You

delivered it to us. I don't want to see it watered down. Thank you for letting me speak.

THE CHAIR: Thank you, Vice Mayor.

MS. GREENBARG: Good morning.

THE CHAIR: Have you filled out a speaker request?

MR. GREENBARG: No. I will. May I?

THE CHAIR: If you'll do that after.

MS. GREENBARG: I will. I'm Charlotte Greenbarg, President of the Broward Coalition. I echo everything that Vice Mayor Gunzburger has said. We totally agree with her. We're based Broward County-wide. I happen to live in Hollywood but our offices are all over the County. We represent the interest of over 250,000 residents and over 200 associations. And I must tell you, we have been waiting for this for years. You did an excellent job. No one is arguing that in my constituency. We want this on the ballot. We understand those interests that don't; however, we believe in transparency, but the attempt to keep this off the ballot is not the kind of transparency that we're talking about. And it's obvious what's going on here. November 21, 2004, I tried "mightily," as Fred Grim (phonetic) wrote, to save Beverly Gallagher from herself. I am now -- she didn't pay any attention, the School Board didn't pay any attention. I am, through you, speaking to the County Commission, to some of the members of the County Commission, who are trying to do this. I'm going to ask you

once again to save you from yourselves. Do not try to subvert the will of the people. Don't try to subvert the intent of this Commission. There is no constitutional prohibition. You have no problems with being a lobbyist. With your rights to be a lobbyist, you have a responsibility to make a decision on behalf of what is best for the voters and what the voters want. You have a responsibility to choose. You can either be a County Commissioner or you can be a lobbyist. We believe you can't be both. And we believe that -- I live in the City of Hollywood, and I did stand. And we agree. So we're committed to ethics reform, and we are committed to what you have produced, which is excellent. And I thank you.

THE CHAIR: Thank you, Ms. Greenbarg. Are there any other members of the public wishing to comment? Mr. Meyers, before I recognize you, I would like to read an e-mail that I received from Mr. Teitler, your office, prior to -- and it says, "Neal, based on the action taken by the Broward County Board of County Commissioners on Tuesday, this office will no longer be able to provide legal counsel to the Ethics Commission. I'm scheduled to be out of the office on Friday, but at the Ethics meeting by phone at 9:00 a.m. to make a very brief statement to that effect. It would be -- I would appreciate my statement be made at the outset of the meeting. Thanks. Rob."

Since then we received that you would be here in his lieu to provide comment and answer questions. But I just wanted to make sure that the members knew that your office was no longer providing counsel to us.

MS. CEPERO: (Inaudible.)

THE CHAIR: If she gets called in while we go, that would be great.

MS. CEPERO: I just wanted to let you know.

THE CHAIR: Ms. Alfreda Coward is trying to call in, so we'll deal with that. Mr. Teitler, thank you -- I'm sorry. Mr. Meyers. I apologize.

MR. MEYERS: I'm not sure if you can hear me. My voice can tend to be very loud, even without this. I know it's early in the morning. I don't want to cause any eardrum damage here. I'm Andrew Meyers with the County Attorney's Office and here with me is James Rowlee, who is a Senior Assistant County Attorney. I just want to state -- I think, Mr. Chair, you asked for me to perhaps give an explanation as to what the Commission did, the County Commission, and where it goes from here. So let me try to do that. The County Commission, following advice of the County Attorney's Office, authorized the County Attorney's Office to seek a ruling in court prior to the time it must vote on the proposed Ethics Code.

(At this time, a prerecorded telephone message was inaudible.)

THE CHAIR: Give us one minute. I apologize. Go ahead.

MR. MEYERS: I seen it suggested, and I actually heard it suggested this morning, that this was direction that our office may have received or the office is trying to do someone's bidding. I can assure you, this is direction from our office, not to our office by any County Commissioner, by anybody here or by anyone else. This is purely a

legal issue, and basically we have an opinion on the law, and we're seeking guidance. As the County -- Vice Mayor Gunzburger sent an e-mail -- which she mentioned this morning -- to the County Attorney and the County Attorney prepared a response, and I'm not sure if you all have been given a copy of that response, but as Mr. Newton stated in his response to Vice Mayor Gunzburger's her e-mail, we believe our legal analysis is correct, but we're fallible. We can make a mistake. So before acting on our advice, the County Commission did something that frankly I believe is very prudent; try to get a court ruling prior to the time the County Commission must act to try to ensure that the County Commission does not violate neither the Charter directive nor the Constitution. I'm sorry. You know, God knows I never would have wanted to help open up a "can of worms" here, but I'm a little bit puzzled by it, because I think it is a prudent move. And even with this "can of worms," that's been opened, I think I would give that same advice today were I the County Attorney. And certainly the County Attorney values my input and values the input of Mr. Rowlee. I just don't see it as problematic from that standpoint. It's important to put this in context. The vast -- I responded and Ms. Rorapaugh, I'm not sure if you got a copy of an e-mail response -- I know you sent an e-mail and Commissioner Jacobs asked us to prepare a response and I said this --

MS. RORAPAUGH: I will read that response. I received the response. I will read it into the record.

MR. MEYERS: Okay. But trying to put this into context, the vast majority of what is in the proposed Ethics Code is clearly legally valid

and clearly consistent with the Charter. We're dealing with a few discreet issues, but given the advice and the direction that Mr. Teitler had provided on a number of occasions to this Commission -- and I know I was called in one time, I didn't want to get involved, but I was called in one time when in fact there was a motion to remove the Chair, based upon the Chair following the advice or recommending that the advice of Mr. Teitler being followed -- and I came in here and I was very cryptic, and then there was something said in the press about me barging in and trying to do someone else's bidding, but I remember what I said. I said, you did what you did, either it's within the scope or it's not, either it will be challenged or it won't, and if it's challenged, either it will be invalidated or it won't, you all get on with important business. And certainly that is all I intended to convey. I know from reading a few transcripts, and from discussing with Mr. Teitler what transpired, and seeing a few e-mails, that his direction was clear about the scope. I'm not saying he addressed every issue. I don't know that he did address every issue. But I think that there shouldn't be great surprise that there is some dispute as to some of the provisions in the proposed Ethics Code.

Just to clarify, Mr. Chair, you said we're representing the County. And we do represent the County and our office was asked to serve as staff to the Ethics Commission, in what, according to the Charter, was supposed to be a cooperative and communicative process. And our office sort of worked "two hats," and served in that capacity. Now it's likely headed towards a Declaratory Judgment action. Litigation. As you mentioned, Mr. Chair, somebody being sued. And we're not going

to be serving as advocates in that case. We can't. We contacted the Florida Bar. We didn't think we could do it, we weren't sure. Everybody's worried about resources and money and nobody wants to use outside counsel unnecessarily, because it's expensive. So we did make the inquiry. We're not going to be -- assuming a lawsuit is filed and there is still some "turf," between now and then, we're not going to be representing the County as litigation counsel.

But I can tell you that the only goal in the litigation would be to get a decision on the merits. Nobody is looking to impose personal liability on anybody. Now, sometimes in litigation -- and I defend a lot of litigation, as Mr. Rowlee, for the County -- individuals may be named in their official capacities. Well, I'm not sure if that's going to be necessary here. I don't know the posture. This is a little bit different from anything I have been involved in. But I can assure you that if that doesn't have to occur, that won't occur, and nobody is seeking any individual liability. It would just be like the dozens of lawsuits I have in the name of the Mayor, in the name of somebody else. But I don't know that that would happen. And frankly, I'm not sure exactly how this lawsuit would play out at this time, nor am I getting involved in that. That is going to be something that would be handled by outside counsel if it came up. The only other --

THE CHAIR: Mr. Meyers, if you could wrap up your comments. I have some questions and statements and I'm going to turn the floor over to the members to ask you questions while you're here.

MR. MEYERS: Thank you. I'm finished.

THE CHAIR: Thank you.

MR. WOLFE: I have a question.

THE CHAIR: I'll turn this over in a minute. I understand all the explanation. Quite frankly, none of that, I'm not surprised at all. I'm not surprised that there is a lawsuit. That is not my concern. You have addressed everything, except what I'm concerned about as a Commissioner, and that is -- you said that "was supposed to be a cooperative communicative effort." It clearly was on multiple occasions. It wasn't “supposed to be.” It was. You also said that you sort of wore "two hats." You absolutely wore "two hats. You represented both us and the County Commission. It was raised at the first meeting that I Chaired, is this not a conflict of interest, and it was clear then that it wasn't, but also stated that if it became one, that counsel would come back to us and say, hey, there's a conflict. I knew it then, I'm not attorney. I know it now. And that was part of the blow up where my position was called for, because I questioned the conflict of interest issue.

Regardless of that, I still want to know who is going to represent this Board in the litigation. And again, I'm not an attorney; I don't want to pretend to be. But it's clear to me that someone has to be named, and you can't sue yourself. And we're an appointee of the County Commission through referendum, so you can't sue yourself. My gut tells me it's going to read, Neal de Jesus Chairman, on and on and on. I don't know how else you sue nothing. So regardless of how it ends up in court, if we're going to be dragged into it, my question is simple.

One, who is going to represent us? And it certainly can't be the County Attorney's Office. You've made that clear, or Mr. Teitler made that clear. And two, who is going to fund that? So with that being said, those are my questions. If you want to respond to them, great, and then I will take Mr. Wolfe and whoever is next.

MR. MEYERS: Well, let me first state that I never believed that there was a conflict and I think now that we're heading into a potential court situation that there is a conflict. And I misspoke before by saying, "it was supposed to be." I agree with you. I think there were strong personalities involved, but I think it always was collaborative and communicative, and it's not for me to say one way or the other. But obviously, this Commission did very important work. And that work needs to be considered by the County Commission. The voters were very clear about that. So I didn't mean to imply that it wasn't collaborative and communicative. It was. Now there is a conflict, however. So I just want to make that clear. As far as "wearing two hats," I mean -- I wasn't very involved in this Commission and that was intentional on my part. I got called in a few times to try to defuse some issues, to try to add a little general guidance, and then I attended the last meeting after all of the decisions were basically made in Mr. Teitler's stead, because he was out of town. So I don't know all of the conversations that occurred and everything that happened. And I don't even know that that needs to be dredged up.

There are questions, legal questions, as to whether the lawsuit would be brought in the name of the -- against the Ethics Commission or if

individuals would have to be named in their official capacity. That is something that outside counsel is going to have to determine based on an analysis of the case law.

I will say, however, that my view is that this wasn't purely an advisory council, this was sort an autonomous council that presented a final work product that to a certain extent constrains and took away general legislative authority by the County Commission. So I'm not sure of the answer to that. And once the answer to that is determined, then that will determine what resources would be required and would be made available for the defense of it. Obviously it's not going to be by the County Attorney's Office for the reasons you stated. Once those issues are looked into that may impact cost estimates, and that may be something that forces a reconsideration of the entire direction or advice that's given. I don't know. It's still kind of early in the game and things are being analyzed.

One thing I would like to apologize for to the County Commission and the impact it's having on this Commission -- Vice Mayor Gunzburger mentioned that the memorandum was given at the end of a long lengthy meeting. The timing could not have been worse, because it was the last meeting before recess. If this was a week earlier then you talk through things and you may have other options. Unfortunately we're sort of at the end of a timeline and some things have to occur. I don't have all of the answers, but somebody -- outside counsel will look into things and the interest of this Commission will be considered and protected.

MR. FINK: And you expect us to believe that wasn't timed that way?

THE CHAIR: Let's hold on our comments. We will go in line. And I want to reiterate again, we will remain professional in our decorum.

MR. FINK: I was. I just asked him a question.

MR. MEYERS: Mr. Fink, I can't control what you believe or you don't believe.

THE CHAIR: This is exactly why I don't want "off the cuff comments," Mr. Fink. If you want to be recognized, be recognized and you can speak. I'm not going to allow this to turn into a back and forth. Mr. Wolfe.

MR. WOLFE: Thank you, Mr. Chairman. I know we have a lot of stuff to discuss today, and I don't want to take up all the time. I'm personally livid and disgusted at the comments the County Attorney made Tuesday in front of the County Commission. I monitored and watched the County workshop and every meeting that has gone on throughout this process.

Mr. Meyers, your comments have been actually very fair. Mr. Newton's ones are the ones I'm absolutely appalled at. I think it's laughable to jump and make fools of our County Commissioners, the last minute, impugning that their Oath of Office might be violated by taking action.

I firmly believe in all my years of public service that there is a presumption of constitutionality for all laws, until such time as that law

is successfully challenged. And to have the County Attorney otherwise project that is absurd.

There is a couple of things I want to pass out first and I will get back to my comments, but I came across a website the other day, which I didn't know was out there. It's called CityEthics.org It's run by -- it's non-profit. I didn't know it was out there. It's a not-profit run by the director of the Jacksonville Ethics Commission. And he's been following what has been going on here in Broward County. And I guess throughout this whole process, it took Mr. Newton's memo point by point and said your case law is absurd and not founded in fact. And the ethics principles in which you cited -- and case law was not sufficient. You know, anybody can sue, but I just think this thing reeks of -- if I was a conspirator theorist, I mean, it just looks bad. To come into the County Commission -- which I respect the County Commissioners -- drop this on them -- I know it's not you, it's your boss -- at the last minute -- I'm not doing this personally with you -- makes our Commissioners look like fools. And I resent it. In fact, I told my County Commissioner, I hope you find a new County Attorney in the future.

One point -- question I would like to say -- Mr. Newton's memo to the Vice Mayor, stating your office has identified potential issues that could be raised to delay or even avoid a final legal ruling; I want to know what they are. Is it set forth in a written document? If so, I want a copy of it. And if you don't provide a copy, I want to do a public records request from our Commission to it. I would like you to explain what those legal conflicts are.

MR. MEYERS: I'm not going to address that. And as far as I know, it's not in a public document. But you're certainly welcome to make a public records request.

MR. WOLFE: Will you provide that to the members of the Commission?

MR. MEYERS: Will I provide a document?

MR. WOLFE: Uh-huh.

MR. MEYERS: As I mentioned, I do not believe it is in any document. But here's my only --

MR. WOLFE: Well, let me finish. Mr. Newton said, “we have identified potential -- outside counsel have identified potential issues that could be raised to delay or even avoid a final legal ruling.” What are they?

MR. MEYERS: All I'm saying is this, and here's the point. And I want to make sure, and I'm sure you know, you're a sophisticated person, and I know you know how things work. Mr. Newton doesn't "operate in a vacuum." Mr. Newton relies on his staff to try to help him. He can't prepare every memorandum. He has qualified attorneys who research. And I will tell you that the wording of the -- Mr. Newton's memorandum, which was prepared by the office, not -- Mr. Newton -- didn't offer every word in the memorandum -- put the Commission in a bad position and that is unfortunate. And that is one of those things that if we had more time -- there's is a better way to state things then it does violate. Because it tends to -- it puts people in a “box.” And that's unfortunate.

MR. WOLFE: I don't believe it.

MR. MEYERS: Well, let me just tell you, you talk about that pronouncements presumed constitutional until they're proven otherwise, and I don't disagree with you from a general standpoint that that is correct. And in fact, we rely on that and cite that on most of the briefs we file in court, because we benefit by that; however, I have to my left, someone who is significantly involved in this issue and has substantial constitutional expertise -- this sort of -- we're not dealing with pure scope issues right now. Scope issues are something different. Things that directly and substantially impinge on core constitutional interests are subjected to what is called, "strict scrutiny." And I'm not going to argue the law with you, but I'm just going to tell you that I respectfully disagree with your legal opinion and I happened to read a little bit of that blog where that city attorney, whatever it was -- I think Monica may have forwarded it -- and I took a quick look at it last night. I wasn't aware that that existed either, until I saw it. And I respectfully disagree with that individual. As had been suggested, Vice Mayor Gunzburger said you get two attorneys in a room, you get three opinions. Commissioner Shechter said it -- I think it was Commissioner Shechter -- at least three. People have different opinions. That is what courts are for.

THE CHAIR: If I could try to -- I just want to bring this into context. Meyers. He is representing the County. He no longer represents us. While I respect his opinion, and I realize he is a great appellate attorney, he can tell me whatever he wants at this point. I remember

the workshop that you all had, your office had with the County Commission, one of the first statements that were made by one of the Commissioner's to Mr. Newton when he said, you know, I'm uncomfortable in presenting this to you, because there's a conflict. He knows the conflict back then, and it still wasn't brought to our attention. That was his testimony.

MR. MEYERS: Mr. Chair, I call them as I see the. I try to be a "straight shooter," on these things and I speak to Mr. Newton all the time. And sometimes there is a Gulf between a lawyer's thoughts and what comes out of the lawyer's mouth of the lawyer's pen. And the memorandum here is an example where it would have been more prudent on our part to put -- this is a very potentially an unconstitutional --

THE CHAIR: I don't know what somebody said, but I know what he said.

MR. MEYERS: My point is, none of us -- look, most government lawyers are very happy to cast aside work, and I have to do extra work. They're paid by salary, not by the piece of work unlike private sector lawyers. The reason that people serve here, here in representing this Ethics Commission, was it was cooperative, communicative and a belief that there was absolutely no conflict, that everybody had the same goal which is, you had a mandate to do something and to the full extent you were permitted to do that by the Charter, that is what needs to be considered and voted up or down by the Commission and subsequently potentially by the voters.

THE CHAIR: Thank you. What I'm asking this Commission is, do you all want to debate the legalities of their actions or -- I would like to stay focused on where do we go from here, and whose going to represent us as a Commission, whether we're named individually, collectively, not named at all, we have still an Ethics Commission and we have no -- today as we sit here, we have no counsel. Mr. Fink, Ms. Rorapaugh.

MS. RORAPAUGH: I agree with the Chairman, but I have some fact finding questions that I have also and when it becomes appropriate to ask them --

THE CHAIR: Well, I would ask that we ask the question, we allow him to answer, rather than debate back and forth and we move forward, because I want to get to, where do we go from here as an Ethics Commission. Because frankly, I didn't serve long and hard for a year to then have to defend myself. And I don't even want to sit here any longer than I have to today without legal representation. Mr. Fink.

MR. FINK: I totally agree with your last comment. I think it's important and I think you're correct; we have to make a decision as to where we need to go from here. But I think it's important that we get some things into the record so that the public understands the timing of certain things so the transparency of this charade is brought forth through the media. When did we end and when did we present our report, Ms. Cepero?

MS. CEPERO: February 19th your proposed Code of Ethics was --

MR. FINK: What month are we in now? June? You're telling me for four months you guys waited until the last minute to figure out that you think we may have done something wrong -- you don't need to respond because these are rhetorical questions for the record. Okay. Mr. Teitler sat here in a cooperative effort and there were times when he did tell us he thought we were going afoul of our Charter. They basically involved when we tried to ask that whatever Code of Ethics that we endorsed and adopted would be extended to county employees, which we agreed was outside of our Charter; however, we did agree that we were going to ignore that advice in terms of trying to extend it to that, but at no point did you, your attorney, your attorney's office or even you, say to us that when we were restricting lobbying -- and this was back in January and December, so that's seven months ago, that all of a sudden at the last minute, at the 12th hour, your attorney, Mr. Newton, has decided that we may have run afoul of the County -- not a response. I'm not looking for response.

MR. MEYERS: Mr. Fink, let me just say, I can respond to everything and it's very easy to have a one-sided monologue, but I'm not going to sit here and be a "potted plant," and accept your charges. If I'm expected to sit here, I'm going to leave, and that's okay also. But I'm not going to sit here and listen to one-side. And frankly, charges like that don't make a lot of sense. This Commission didn't have anything else it could have done. There wasn't delay because we wanted to prevent the Commission from doing anything. This Ethics Commission submitted its proposed Code and that's it.

THE CHAIR: That is not it, because we were advised by Mr. Teitler, clearly that although you submitted the proposed Code you still remain as a Commission under the Sunshine until either it's accepted by the County Commissioners or sent to the voters. And that's why we're here today. If we would have sunset, I would have been done.

MR. MEYERS: Chair, I agree with you completely. And frankly, I'm not sure why it was written that way, but what is clear is, that if there was a way -- we thought that -- and again, I wasn't primary counsel here and I'm not second-guessing anything, I'm not sure anything was done improperly, and I'm sure it wasn't done by our office for an improper motive, but if there was a way to come back to you again, if there was a way to come back to you now and say these provisions are problematic, let's work on them, that is something that would be beneficial. But I would like to say that except for -- as far as I know -- the lobbying down provision -- as it's been called -- all of the other provisions at issue here are scope issues. They may involve First Amendment rights as well, but they're scope issues, because they're addressing the actions of individuals other than the County Commissioners.

MR. WOLFE: Then you challenge it after it's adopted.

THE CHAIR: Members, listen, I'm willing to debate this. We'll open the floor.

MR. WOLFE: (Inaudible.)

MR. MEYERS: Is that a legal opinion?

MR. WOLFE: (Inaudible.) Analogy. (Inaudible.)

THE CHAIR: We'll open the floor to questions and answers. If you ask a question we're going to provide that individual an opportunity to answer a question. It's the right thing to do.

MR. MEYERS: Mr. Wolfe, you shouldn't be giving legal opinions on things. You're not an attorney and they could not challenge it.

MR. WOLFE: I'm not giving legal opinions, sir.

THE CHAIR: That's enough. I'm trying to set the tone.

MR. MEYERS: I apologize.

THE CHAIR: If we're going to ask questions we're going to give the person we're asking a question an opportunity to answer the question. If we continue to get out of the bounds, I'll call the meeting. We're not going to sit here and debate this. Here's my concern, folks, we have done our job, and we have done it well. And I'm not going to allow this to undo what we did. It's not my fight beyond this. If the County Attorney wants to provide counsel to the County Commission to try to undo this, the public can see what's happening. I'm not going to go fight, undoing that in court. I want to know a simple question. We were put in place by the voters. Who represents us and who is going to pay for it? You can not provide that answer. You already said, as we go forward we will try to unravel that. But in the meantime, we remain unrepresented, and it's likely, more than likely, we will end up as

named individually or certainly me as the Chair, in that litigation. You have to sue somebody.

MR. MEYERS: Mr. Chair, before -- no lawsuits has been filed. You're not unrepresented in any litigation right now.

THE CHAIR: But we're unrepresented as a Commission.

MR. MEYERS: Again, the purpose of the Commission, why the Charter provision was written, that the final work product of the Commission is submitting the proposed Code and then nothing else, but it does not sunset until later might be for standing reasons, I'm not sure, but the point is, before a lawsuit is filed, I will try to make sure to the extent that it's permissible -- and I will speak to the Bar about this -- that we have a full understanding of what the County's financial commitment is going to be, and that may be an important factor in this, because while seeking the advice here may be very beneficial at a certain cost level, there is a comfort level in our office with the advice that was given and the resource implication of this may be a factor. But we're not going to permit -- and I don't speak for the County Attorney, except today, because he is not here -- I will talk to the County Attorney about not having suit filed until there is an answer to that question and then we will talk to you about that in writing so there can't be any misunderstanding as to what was said.

THE CHAIR: Well, I appreciate that plan. At least we're "slowing the ship down," but again, you, the attorney who is likely going to sue us --

MR. MEYERS: I'm not.

THE CHAIR: Well, the County Attorney's Office.

MR. MEYERS: No one in the County Attorney's Office.

THE CHAIR: You're hiring them. You know, twist it again. "Put more perfume on this pig, it's still a pig." You're twisting it to whoever you want to hire. You no longer represent us, so to sit here and take counsel from you --

MR. MEYERS: I'm not counseling you, sir.

THE CHAIR: -- is a conflict. You're giving me opinion, you're telling me where it could go, where it may go. I would like an attorney sitting at my side who is representing me and not your clients telling me, hey, here's where this thing could go, here's where it's going. And we need a decision from County Administration as to who is going to fund that. Because I would like to retain an attorney to do that.

MR. WOLFE: There is a motion in order to request that?

THE CHAIR: Yeah. I guess. Who is it going to --

MR. WOLFE: I'll make a motion. Mr. Chair, I make a motion to direct the County Administrator's Office to provide the Broward County Ethics Commission legal counsel pursuant to Mr. Newton's action in front of the Board of County Commissioners this week.

MR. SHECHTER: Second.

THE CHAIR: Motion by Mr. Wolfe, second by Mr. Shechter. I have a question for you, Mr. Wolfe. If you're recommending that they provide us counsel --

MR. WOLFE: A budget for counsel.

THE CHAIR: -- I'm not comfortable with that.

MR. WOLFE: I'll amend to be funded --

THE CHAIR: It will simply be a conflict again.

MR. WOLFE: I'll amend that to be -- to provide us funding under the guidance of the Chair of this Commission to provide us legal counsel.

THE CHAIR: There's an amendment to Mr. Wolfe's motion. Is there a second?

MS. RORAPAUGH: Second.

MR. SHECHTER: Second.

THE CHAIR: Commissioner Shechter seconds. Comments. Ms. Cepero.

MS. CEPERO: Yes. It's necessary to say, I need to speak up and at least let you know that the County Administrator does not have the authority to appropriate funds.

MR. WOLFE: She'll have to go to the County Commission then.

MS. CEPERO: Correct. So an official request, if that is where you guys are headed, that is what needs to happen is an official request to the County Commission.

MR. WOLFE: You have a budget workshop next week.

THE CHAIR: I have another question for you, Mr. Wolfe. Is your intent to retain counsel so that we can determine if we need to be defended in this litigation or represented or is it to defend the actions of --

MR. WOLFE: I think both. And that would be under the direction of the Chair to decide that with this Commission, but I think there is an inherent conflict in this building because with the County seeking outside counsel to oppose what the County is doing, who is speaking up for the people of this County and who is speaking up for the work product of this Commission, plus there's the other thing that my develop is if we're drug into court. We have no resources. We have no --

THE CHAIR: I'm okay with the latter. I want representation to -- here's what I'm looking for. I'm looking for representation for this Commission in this litigation. I'm not looking to get into a court battle with the County Commission as to whether a Code that we produced is constitutional, unconstitutional; I don't want to be dragged into that court battle. I want representation that says, we're represented through this thing. And that is their fight, if they want to fight the public -- the court of public opinion with that issue, then so be it. So if we can amend that to say that we want funds to retain our own counsel for advice as to how we need to prepare or proceed, I will limit it to that. I don't want to get in the court of public opinion and fight this thing in court as to whether it's constitutional, or unconstitutional. If you can limit it to that scope, then I'll accept that.

MR. WOLFE: I will defer to the Chair. One thing just for information for the body. I did reach out to the Broward Workshop this week. They were unaware of what has been happening with the County, but since they publically said they were going to support us financially and publically on our Ethics Commission, I told them well now is the time to sort of give us some support guys and gals.

MR. BAKALAR: And I'm hoping that any attorney out there listening to what is happening here would happily -- I'm sure many will be willing to provide support on a pro bono basis. Because I think there is a lot of defenders of the Constitution out there, and I think that is what we need.

MR. WOLFE: Somebody running for judge.

THE CHAIR: Again, I'm not looking for -- if there is a group out there that wants to challenge what the County Attorney's Office is recommending they do in court, one of those Constitutionality groups, I understand that. Again, I want to narrow the scope of our motion, if it's okay with the maker of the motion.

MR. WOLFE: I agree, Mr. Chair. I defer to you.

MR. FINK: Pursuant to that, I have a question.

THE CHAIR: Still discussing the amended motion?

MR. FINK: Right.

THE CHAIR: Go ahead, Mr. Fink.

MR. FINK: In reality if we're going to go into an adversarial position with the County, then whatever support the County has been providing to this point in the form of Monica Cepero and some of the other people, could very well disappear, because of this adversarial position that --

THE CHAIR: Well, I don't know that we're going into adversarial position with the County. The County Attorney has recommended to the County Commission and they agreed to file suit against our product as to whether it was within our scope or unconstitutional. I just want to make sure that we're represented so that when they get to that point, whenever it is, and they have to type the front page of that lawsuit, if it says, Neal de Jesus, Carl Shechter, et al., that we're represented and we have somebody to turn to. That is it. Whatever they fight in court, that is their fight. I don't see that as -- we have done our job. We represented the community, we worked collaboratively and we submitted a document.

MR. SHECHTER: And that was the scope of the meeting. There is nothing beyond -- we're not going to argue the merits of the Declaratory Judgment.

THE CHAIR: So Mr. Wolfe, as the maker of the motion, if you could put that into some type of understandable language, we will call the vote.

MR. SHECHTER: "Understandable."

MR. FINK: Do you remember what you said?

MR. WOLFE: Yeah. But -- so we have -- we have a substitute motion, so we're going to withdraw that. Withdraw the second.

MR. FINK: Go ahead.

MR. WOLFE: The motion is to move to ask the County Administrator's Office to provide through the County Commission proper funding with the guidance of our Chair to ensure that we get proper legal representation.

MR. SHECHTER: Not the County Administrator.

MR. WOLFE: Well, the County Administrator to the -- we have to go through the County Administrator to the County Commission, to ensure that we have proper legal representation in case we get involved in a lawsuit.

MR. FINK: Bob, would you put in a phrase that says -- because I wrote this down when Mr. Meyers was talking -- that we get dollar for dollar. Whatever they spend on their outside counsel, we get dollar for dollar?

MR. WOLFE: We can't. I don't know if we can specify what an amount is.

MR. FINK: We're not. We're just saying dollar for dollar. If they spend $250,000 for their side, then we're entitled to the same amount.

MR. WOLFE: I ask that we -- whatever -- I think asking for legal assistance is fine. And I hope that we do get some citizens and the community to step up pro bono.

THE CHAIR: Let's finalize the motion. If there is an amendment after discussion then we'll go to that. There is a motion on the floor to direct the County Administrator to request to the County Commission that we receive funding to retain our own outside counsel for guidance as to where we proceed in terms of this pending lawsuit.

MR. FINK: Second.

THE CHAIR: Motion by Mr. Wolfe, second by Mr. Fink. Discussion. Ms. Cepero.

MS. CEPERO: Point of clarification. I think it might be a cleaner method to do it is, if this motion passes, that you direct, perhaps you send a letter directly to the County Commission so it is a direct request by the Commission as you've done in the past with other --

THE CHAIR: I'm fine with that.

MR. WOLFE: And that would make that counsel, whoever that is, authorized to make those appearances on behalf of this Commission without us having to meet again.

THE CHAIR: Yeah. I'm okay with sending it directly to the Commission. We have done that in the past.

MS. CEPERO: I will work with the Chairman to draft a letter.

THE CHAIR: I will have our attorney -- I guess not.

MR. FINK: Yeah. Which attorney would that be?

THE CHAIR: Any other thoughts? Comments? Mr. Bakalar.

MR. BAKALAR: Just one. The cost issue, just because I think it will come up, that is why I really think and hope we will end up with pro bono legal counsel. The real cost is to the citizens of Broward County, let's remember that. And it's again, a cost to ethics as we know it. It's as simple as that. It's not a dollar cost. And I worry that that is what the argument will come to be --

THE CHAIR: I agree, Mr. Bakalar. In reading through the verbatim minutes of the County Commission, that was certainly a concern. You know we don't want to spend a whole lot of money, but this is not an action that we took. So I do want to spend any funds appropriate to make sure that we're okay. My hope is after the County Attorney's Office meets with their newly retained counsel, that there is a way that this Declaratory Judgment gets filed that doesn't include us, and we don't have to spend any taxpayers dollars to have legal representation. We're not going into court with them to fight whether what we did was good or bad. That is their fight. And the public is following it. I want to make sure that we're good going into it so that none of us are standing there taking more time and funds out of our personal pockets to defend what we have done as a public service, I believe diligently, over the last, more than a year. Mr. Fink.

MR. FINK: Howard, the only reason I mentioned dollar for dollar is because I think the public is entitled to know what kind of an expense the County is willing to go to, the County Commissioners are willing to go to, to try and subvert a Code that we produced after one year's worth of work to bring transparency to government.

THE CHAIR: If that was the case, Mr. Fink, in their minutes, they estimated to cap around $25,000; I believe that number was, Mr. Meyers.

MR. MEYERS: Mr. Chair, may I respond to that very briefly?

THE CHAIR: Yes, sir.

MR. MEYERS: First of all, it was a range and just an estimate. And I think the top of it was 20,000, but I'm not sure that would be adequate. Secondly, it's very important for me to state as someone who is also involved in looking at some of the issues in a review capacity, because Mr. Rowlee and another attorney in our office took a direct look at it, and in particularly the most recent Supreme Court Pronouncement. There is absolutely no intent by the County Attorney's Office or by anyone else that's communicated it to us to subvert what the Board has done. What the problem is, is that there is a serious concern about potential liability under the First Amendment. This is a ban of certain speech rights. There is a recent Supreme Court decision that I'm not going to directly address, and Mr. Rowlee can certainly address if need be. That is the concern. And the First Amendment -- as important as ethics reform is and no one would every doubt that ethics legislation and ethics reform is very important, and the voters have spoken as to that -- the First Amendment is extremely important. The right to readdress government is extremely important. These are all important issues and that is why there was the advice and consideration of a court action. Not to subvert anything.

THE CHAIR: I appreciate the explanation. You understand that while -- I'm certainly not going to sit here and try to guess what the intent is or isn't of either the County Attorney's Office or any of the County Commissioners. I don't know their intent and I'm not going to try to guess that. But you understand that some of these questions you're hearing from members and some of the frustration that is being expressed is because until you said here today, that a vast majority of this thing is good work and very little is questionable -- that might not be verbatim -- all we have heard is how bad this product was, and how terrible it was, and how unconstitutional it was, and how out of hand it was. So I hope you understand that sitting here, you're the messenger that is getting "shot."

MR. FINK: There's a motion on the floor and we're in debate here. So at least let's finish the motion and then we can go to debate.

THE CHAIR: Thank you, “Mr. Chairman.”

MR. FINK: I agree with some of what you're saying.

THE CHAIR: Thank you.

MR. MEYERS: I understand, sir.

MR. WOLFE: Any other comments? Can we call the question? Roll call, please.

(Roll call was taken by the real-time reporter.) (VOTE: 6-0.)

MR. FINK: Do you have somebody on the phone?

THE CHAIR: I don't think so.

MS. CEPERO: Clarification. Does that include the dollar provision?

THE CHAIR: No. Any other business? Ms. Rorapaugh?

MS. RORAPAUGH: I have a couple of questions, and Mr. Meyers, I respect the County Attorney's Office. I respect the work that you do as a public servant and your associate does as a public servant. And I appreciate your work in trying to give the County Commission -- or Mr. Newton's work to try to get the County Commission advice and counsel. Who requested that memo that was given to the County Commission on the 15th that was requested on the 14th?

MR. MEYERS: There was no memorandum requested. What resulted in a memorandum being issued was there was a pre-board meeting inquiry on the 14th. The office had done advance research on this because the office understood that basically this was a concern; the scope issues and the scope issues -- you have to understand. We read the cases as they come out all the time, and there has been a lot of fallout from Citizens United. That has been a concern of the office and it's something the office has been internally debating for probably several weeks on that.

MS. RORAPAUGH: Who made the inquiry? Who determined that that memorandum was necessary? Was this just an internal decision of the County Attorney?

MR. MEYERS: We decided that we would issue -- normally a pre-board meeting inquiry -- I don't know if you have seen the responses -- it's something typed out very quickly, and the response was given. Since there was some internal research done on this already and there was a request to answer a question, which was specifically about the constitutionality -- and I forgot the exact wording of the question -- we decided internally to prepare a memorandum and did so rather quickly.

MS. RORAPAUGH: Who made the pre-board inquiry? What entity? What Commission Office? Who initiated this pre-board inquiry?

MR. MEYERS: You know something, I don't recall exactly.

MS. CEPERO: It was Commissioner Lieberman.

MR. MEYERS: That's right. Correct.

MS. RORAPAUGH: Who?

MR. FINK: Commissioner Lieberman for the record.

MR. WOLFE: Did she help write it?

MR. MEYERS: Did Commissioner Lieberman help write it?

MR. WOLFE: Yeah.

MR. MEYERS: I can tell you, at the risk of -- and I hope the Bar will understand me and not think I'm revealing any privilege or anything, Commissioner Lieberman doesn't write any of our legal work, didn't write this, didn't dictate any result. No Commissioner dictated any result. This is our research. This is our belief as to what --

MR. WOLFE: I'm curious that the words, “campaign manager,” were cited twice in Mr. Newton's first memorandum and I wondered where that came from.

MR. MEYERS: I'm sorry? “Campaign manager”?

MR. WOLFE: Yeah. In his first memo to the Commission.

MR. MEYERS: What is the date of that? I'm not --

MR. WOLFE: The first one. The 14th.

MS. CEPERO: He is referring to the memorandum.

MR. MEYERS: “Campaign manager”?

MR. WOLFE: Uh-huh. When you were talking about banning of lobbying. That's not in our document.

MR. RORAPAUGH: No, it is not.

MR. MEYERS: Oh, I can tell -- okay. You're refreshing my recollection. I will tell you right now. And forgive me, because again, I have not been involved in this, this is more of a review capacity, but there was some discussion, I believe, it may have been at the workshop that --

MR. WOLFE: It was.

MR. MEYERS: -- that there was some discussion of having a lobbying ban -- and I don't recall the specifics -- of “campaign managers” as well, and that may have been what generated our research. And I think our office opined that there would be a First Amendment problem with

that -- and thank you -- that does clear it up -- and that the better approach would be to have a recusal or decision not to vote, and not to ban that. I think that may have been the context that started the research.

MS. RORAPAUGH: May I just clarify, since you were not there, Mr. Meyers, and I sat through every one of these meetings, and very few of these County Commissioners who have been talking to me explaining and explaining how this is a fallible product, haven't even read the minutes. They are relying on your office for interpretation. We at no time asked the County Attorney or our representative to research the legality of a campaign manager --

MR. MEYERS: I don't think it was you. I don't mean you, ma'am.

MS. RORAPAUGH: So why would the County Commission, at a workshop, be doing that on a -- based on a workshop on a document that was already produced, that did not address that question?

MR. MEYERS: It wasn't for this document. I think there was consideration of an Ordinance to strengthen -- to basically expand what was in there, but if memory serves, I could be wrong about this, but I think it may be one of the meetings that I did attend, I thought that Mr. Fink, and I thought that Mr. Scherer did propose a prohibition on lobbying --

MR. FINK: Yes, we did.

MS. RORAPAUGH: And it was voted down.

MR. MEYERS: No. I understand that, but I thought your statement was that it was never brought up, but there was somebody --

MR. FINK: It was not in our document.

MS. RORAPAUGH: May I continue on my line of inquiry?

THE CHAIR: Please. We're going to be recognized and we'll ask questions. We don't need to be real emotional about it. It is what it is, so --

MS. RORAPAUGH: I understand.

MR. FINK: I just worked for a year on this document along with everybody else, so don't tell me not to be emotional, because I don't want to see one year's worth of our work go down the "drain."

THE CHAIR: Here's what I will tell you, Mr. Fink, stay in order or you'll lose your privilege to speak. Alright? If you want to be emotional, that's fine, I'm just asking you to be professional. Simple as that. Thank you.

MS. RORAPAUGH: Thank you, Mr. Chairman. In the advice and counsel given in the memorandum of the 14th and actions of the 15th; who is suing who?

MR. MEYERS: I'm sorry?

MS. RORAPAUGH: Who has standing to bring this suit to ask for Declaratory Judgment?

MR. MEYERS: The County has standing to seek Declaratory Relief.

MS. RORAPAUGH: And this is on instruction of the County Commission?

MR. MEYERS: I'm not sure what you mean by "instruction of the Commission."

MS. RORAPAUGH: In essence the County Commission has to approve this legal action.

MR. MEYERS: The County Commission authorized -- you know, again, this is a part of the unfortunate nature of the timing of this. The County Commission is authorized that such Declaratory Judgment action to clarify and give the Commission direction as to what its rights and obligations are under the Charter and the Constitution, that that be brought. As far as who is on the other side of what lawyers like to refer to as the "v" on the other side of the case, that is something that I know is your concern, and that is something that I stated is unclear at this point.

MS. RORAPAUGH: And may I ask, who told the County Commission that they may be breaking their obligations to their Oath of Office if they vote for this?

MR. MEYERS: I think that that is what was stated in the memorandum and I think the concern is -- you know, the County Commission, whether our advice is 100 percent right or 90 percent right, I mean everybody makes mistakes occasionally, and that is why there are courts. Courts make mistakes too and that is why there are Appellate Courts, and I don't say that just because I'm an appellate lawyer, but

the bottom line is they rely on advice from the County Attorney. Even though they're lawyers on the Commission, they don't serve in that capacity.

MS. RORAPAUGH: I understand how government works, Mr. Meyers.

MR. MEYERS: Well, I'm trying to respond to the question, ma'am.

MS. RORAPAUGH: Well, let me give a summary of what it appeared to me, as not an attorney, but as a citizen and as elector in the County of Broward. When I read the minutes -- and I have not been privy to the minutes of the workshop, but I'm told that many things were said that in that workshop that seem far afield of the document that was before the County Commission.

But it appears to me that the County Attorney has advised at the last minute, that to vote for this Codes of Ethics would be voting against the Oath of Office that these County Commissioners have taken. Now, normally -- I have been an advisor to elected officials, and I have had many attorneys who advised me over the years in my capacity as a staffer for elected officials -- normally that advice would be, vote against it. Why are you not just telling the County Commission to vote no?

MR. MEYERS: Frankly, there are other concerns here. And I don't want to get inside the specifics, but I will tell you that there are potential problems with ballot issues, if ballot issues contain unconstitutional or improper provisions. I mean, getting -- if I may finish -- and I promise to be brief -- getting a clarification, getting -- having the court declare

exactly what rights and obligations are -- is in my opinion -- and again, I've been wrong before, and I'll be wrong again -- is good for everyone because -- if assuming you can get it in time, and that is a big question -- because then the County Commission knows exactly what is it obligated to do, and whatever product comes out of there is going to most likely be the most enforceable legally valid product. This is not an unusual action. Declaratory Judgment actions are filed all the time.

MS. RORAPAUGH: May I ask; what date was the original workshop on this work product held with the County Commission? What date did they meet?

MR. MEYERS: It was at some point in May.

MS. CEPERO: May 4th. And I just received a request --

THE CHAIR: Ms. Rorapaugh, one more and then let me get other members. We'll come back to you.

MS. RORAPAUGH: Sure. And at that time, I know that Citizen United vs. the FEC was a judgment that was rendered by the Supreme Court many months before this workshop; why did the County Attorney's Office at that time not ask for Declaratory Judgment, or permission to ask for Declaratory Judgment?

MR. MEYERS: I'm not sure as to all of the timing of it. And I think that some of this came into focus as a result of some of the requests that happened at the workshop. Sometimes you read cases and you don't automatically think, well, how does this case impact the number of

things that are going on, but when you're confronted with an issue directly, you do consider that impact, and you did refresh my recollection that the reason there was internal research done, I believe, and to the best of my recollection, was as a result of something that came up in the workshop. And our advice was that you shouldn't do that because we believe that is unlawfully impinging upon First Amendments rights.

MS. RORAPAUGH: I will ask some questions, but I'll let Mr. Fink go, but I have some more questions.

THE CHAIR: We have Commissioner Shechter, Mr. Wolfe then Mr. Fink.

MR. SHECHTER: Mr. Meyers, does your office routinely review all legislation that is coming forward for constitutionality?

MR. MEYERS: You mean Ordinances or --

MR. SHECHTER: Yeah. Whatever.

(Ms. Cepero left the room.)

MR. MEYERS: Yes, sir. We do. I don't want to say that we're 100 percent. My division handles the constitutional aspects of our office. Sometimes other divisions prepare Ordinances and they will "red flag," an issue for us and we will look at it for constitutionality. In my division I would like to think that anything that we're involved in -- and Mr. Teitler reports to me, Mr. Rowlee does as well, and I report directly to Mr. Newton -- that we try not to let something that we believe is unconstitutional, problematic -- I don't mean problematic, I mean likely

unconstitutional, "get out the door." That is something that we would address.

MR. SHECHTER: So who raised the constitutional issue on this issue with you?

MR. MEYERS: No one raised it directly with me. I think that the way this came up, I believe, and again, I don't have perfect recollection of this because I was not the point person on this and you all know that, you know how many things I attended here, but the bottom line is I think it had to do with the request for a potential Ordinance that would be beyond the scope of the ethics product you produced that would apply lobbying restrictions to -- and I believe it may have been campaign managers -- I think --

MR. SHECHTER: But that was not in connection with what the work product of this Commission --

MR. MEYERS: No, no. I agree with that, but that is when the issue was researched, and then we received an inquiry before. And again, it's a timing issue. On the meeting on the 15th, we got an inquiry on the 14th --

MR. SHECHTER: In response to something Mr. Wolfe said, you said he's a sophisticated person and knows how things work, and so are we all, but for the benefit of those who are not sophisticated and know how things work, let me try to simplify this.

MR. MEYERS: Yes, sir.

MR. SHECHTER: This Commission was authorized by the voters. The charge was very simple; prepare a Code of Ethic, submit it to the County Commission to approve or reject. If they rejected it, it would go to the voters. If there is anything that is unconstitutional in what we prepared, I think it would be your duty as the attorney for the Commission or for the County to then bring an action, but nothing has happened yet. This is a proposal. The Commission hasn't rejected it; the County Commission hasn't rejected this. The voters haven't approved it or rejected it. There is nothing -- at this moment a Declaratory Judgment -- and I know what a Declaratory Judgment is, as you do -- why go through all that expense now when nothing has happened yet?

MR. MEYERS: Well, I think that is a good point. I don't agree with the point in full. I think things have happened and I think there are reasons to seek a Declaratory Judgment. For example, there may be -- your general description of what this Commission was charged to do, I think is accurate. However -- and again, this is not a surprise -- there were some issues in terms of the scope. And basically a Legislative Delegation in a sense occurred where you were given certain authority to draft something for a legislative body to vote it up or down, but the opinion that County Attorney's Office is giving is that that was limited in scope. There are things in the document that exceed --

MR. SHECHTER: Where was the limitation? Where did you find the limitation in the scope of our authority?

MR. MEYERS: I think the ballot question. My opinion. I could be wrong, but I don't think I am. The ballot question, I believe is pretty clear, that it said, solely -- and we didn't draft these things -- solely relating to the behavior of the Broward County Commissioners. And I believe that before -- that my office looked at the ballot question that Mr. Teitler, I think reached out to the attorneys who drafted the Charter question, and may have looked through some minutes and confirmed -- although the plain language I think is dispositive -- confirmed that that was the intent. But my point to you is, whether we're right or wrong, I think that County Attorney's Office made clear that it believed -- and did this during the process -- that very few provisions -- and I apologize for there being the impression that this is anything more than a very small percentage of this fine document. Very few provisions exceed the scope where constitutional -- direct constitutional implications -- but once that occurred the Commission, if they voted up, they would cure that. They have the legislative authority to go beyond that, you didn't. So in essence -- and I think it's a usurpation issue or it's an authority issue and that's what --

MR. SCHERER: Except that the County Commission can't then make it valid. You know, if it's unconstitutional, it's going to be unconstitutional after they approve it or whether the voters approve it, if anybody approves it. If it's unconstitutional, it's unconstitutional.

MR. MEYERS: I was referring to the scope issues, which wouldn't be unconstitutional. I'll give you an example. Gifts, I think there is something in there about gifts to staff. You know, I'm not saying it's a

good idea or a bad idea, I have my opinions on it, but that is outside the scope. The County Commission has the authority to do that because a restriction would be legally valid and constitutional. You all didn't have that authority. I'm saying that as an example. Based on our opinion that is not something that would be invalidated if the County Commission voted it up or down. There are other provisions in there that we believe have serious constitutional problems. With regard to those provisions, our advice, although perhaps stated a little too strongly or zealously in the memorandum, which I think has caused part of this issue, is that the County Commission ought not be in the business of enacting legislation or voting legislation up when there are serious constitutional concerns about core constitutional rights.

MR. SHECHTER: Thank you.

THE CHAIR: Mr. Wolfe, Mr. Fink and Ms. Rorapaugh.

MR. WOLFE: Information for the Commission, I have a medical appointment at 11:30 so I will be leaving here around 11:00, so if we restrict ourselves we're going to lose our quorum.

Just a couple of things for the Chair and for the Committee, since we have requested funding, requested some support from the County, are you able in the future to call another meeting back on your own? Are you able to get them to answer you in a timely manner? That's the one question.

Secondly, I'm still not done with the County Attorney's Office. I want to instruct the County Administrator -- ask the County Administrator to

provide for the Chairman what Mr. Newton identified potential issues that could be raised to delay or even avoid the final legal ruling, which he provided to the Vice Mayor yesterday.

MR. MEYERS: I'm happy --

MR. FINK: Is that a motion?

MR. WOLFE: Yes.

MR. FINK: Can you repeat that?

MR. WOLFE: I move this Commission request of the County Administrator and of the County Commission to provide to our Chairman, from Mr. Newton, what identified potential issues that could be raised to delay or even avoid a final legal ruling, which he provided the Vice mayor in writing yesterday.

MR. FINK: Second.

THE CHAIR: There is a motion on the floor. There is a second by Mr. Fink.

MS. RORAPAUGH: Call the question.

MR. WOLFE: The purpose -- I want the Chairman to have full knowledge of what is going on in here, so he and this body could make some decisions if needed in the future.

THE CHAIR: So why doesn't that response go to the entire Ethics Commission?

MR. WOLFE: Through the Chair. We're still under Sunshine, and I think it's a proper chain of command through you, sir.

THE CHAIR: Okay. Any other discussion?

MR. MEYERS: I'm happy to address that now and take --

MR. WOLFE: I want to do a motion. That means you're not our representative anymore.

MR. MEYERS: You are asking for --

MR. WOLFE: If you want to give it to us, that's great.

MR. MEYERS: You're asking the County Attorney's Office for a response, and I will give it to you right now. The bottom line is it's not a specific thing related to this Code or this litigation. The point is that our goal is to get to the merits right away. Lawyers all the time -- and we have attorneys here -- will throw procedural roadblocks and will raise defenses and will seek to delay things, that could happen and that could prevent us from getting to the merits or a Court may not be available to issue a ruling. This is a very expeditious ruling that would be sought. So it's not anything specific to the Code --

MR. WOLFE: I want our Chairman to be guided in the best possible resources.

THE CHAIR: I'll still make that request in writing, but I appreciate the explanation. All in favor signify by saying, aye. Any opposed? Same sign. Motion carries. Mr. Fink.

MR. FINK: Mr. Meyers, you are the "Tony Hayward" of Broward County. You're sitting in here in front of a bunch of angry people. It's not directed at you, but right now you're BP.

MR. MEYERS: Oh, well, thank you, sir.

MR. FINK: You need to understand, it's not personal.

MR. MEYERS: I understand that.

(Ms. Cepero entered the room.)

MR. FINK: I'm going to surface what I think is the real root of the issue here. And Carl, this goes to what you just said. There was a very simple charge by the people of Broward County; develop a Code of Ethics; bring it before the County Commission, they either vote it up or down; if they vote it up it does not need to go to the voters; if they vote it down it does go to the voters for their approval. And I think what we see here by the tactics that have been used, and however they were initiated, is an attempt to keep this off the ballot in November. Okay? And that would delay -- and Carl, it ties directly to what you said. Why are you seeking a Declaratory Judgment on something that hasn't been approved or enacted? And I also believe that we provided for severability for any of the clauses that turned out to possibly be unconstitutional --

MR. MEYERS: Problematic.

MR. FINK: -- if they were declared to be, but until this is voted either up or down by the Commission, or up or down by the public, there is

nothing for you to seek a Declaratory Judgment of, as Carl has stated. And I think this is nothing other than an attempt to keep this off the ballot so that the voters do not get a chance to vote in November on whether they want transparency in their government.

MR. MEYERS: I disagree, sir.

MR. FINK: It does not require a response.

MR. MEYERS: But I told you I would give you a response as I'm sitting here. And I disagree again.

MR. FINK: You're “Tony Hayward.”

MR. MEYERS: And I'm not going to take offense by anything you say or take it personally, because I know that it's not intended as a personal slight.

MR. FINK: I think everybody was out of town for a reason.

MR. MEYERS: Okay. It is what it is, and none of us, myself included, certainly the Commissioners, wish we were in this posture now, wish that there weren't these issues in dispute. I wish that the Commission wasn't “boxed” now by an opinion, and there may be some things that can be done now in that regard, but we're dealing with scope issues that were raised and we're dealing with constitutional issues. We will resolve it as expeditiously as possible. And our office, which prepared the memorandum, has absolutely no interest and has not been contacted by anyone to keep anything off of any ballot.

THE CHAIR: One and then Ms. Rorapaugh.

MR. FINK: One follow up only. You and Mr. Teitler, as representatives of the County Attorney's Office and as our advisors, sat here for a year as we debated this document and this Code of Ethics. At no point did anybody bring up the unconstitutionality of the lobbying down issue. That was from your office, that was from Mr. Teitler, and that was from the County Attorney's Office. So why all of a sudden at last minute does it come into -- and again, doesn't require an answer. You're "Tony Hayward," you're "BP." It's a rhetorical question, but I want it on the record.

MR. MEYERS: And I would like to answer you, sir.

MR. FINK: Let me finish the question. How does somebody sit here for a year giving us advice and not bring up the fact, even when we vote on the last -- in February we voted on the last version; is that when we called that final meeting --

MS. CEPERO: (Nod.)

MR. FINK: And nobody in a course of a year said, you guys are treading on unconstitutional ground, but we provided for that by having severability.

THE CHAIR: Mr. Meyers.

MR. FINK: This doesn't "pass the sniff test."

MR. MEYERS: I understand what you're saying, and I think it's unfortunate that there wasn't advice directed to that specific issue. Although I think the memorandum that was issued may have identified only six provisions or something like that, in the Code. I think five of them would fall into the scope issue portion, and I think all of that was addressed. And I said this before, so I will be very brief. I think that there was additional focus as a result of that workshop request and careful analysis of the case law that brought this issue to a head at this time.

THE CHAIR: Ms. Rorapaugh.

MR. FINK: Let the record show that I'm shaking my head no.

MS. RORAPAUGH: Who made the request of the County Attorney's Office to investigate the constitutionality of the lobbying down portion of this Code?

MR. MEYERS: I do not believe that there was ever a request, to my knowledge there was never a request to look at the constitutionality of any specific provision. The only request that I'm aware of -- now there were comments that were made at workshop, and I don't remember all of them specifically, but the only request to look at the constitutionality of it -- of the Ordinance -- excuse me -- of the proposed Ethics Code, I believe was received in the PBMI, the pre-board meeting inquiry.

MS. RORAPAUGH: So the day before the last County Commission meeting that could be held to discuss these issues before they had to take an up or down vote.

MR. MEYERS: Well, as an attorney I like to be proactive, and I think we should have been more proactive in bringing this issue to the attention of the Board, and I regret that it was brought to the attention of the Board at the last minute. That's when the agenda item was put on, Ms. Rorapaugh, and --

MS. RORAPAUGH: I understand.

MR. MEYERS: -- and that's what generates the PBMI in the discussion, is the agenda item. I wish that it would have been put on a week before that, or two weeks before that, but it wasn't, and that is unfortunate. But that really doesn't change anything because the bottom line is that either we're going to be able to get a Declaration or we're not and either it's constitutional or it's not, but this Board couldn't amend it and provide a different product.

MS. RORAPAUGH: If this passes -- say you can't get your Declaratory Judgment, whatever it would take -- and this goes before the voters and the voters approve it; who has standing to sue on this issue?

MR. MEYERS: On a constitutional deprivation? On the scope?

MS. RORAPAUGH: On the constitutional deprivation. Who would have standing?

MR. MEYERS: Anybody who is impacted by the deprivation.

MS. RORAPAUGH: And who would be impacted?

MR. MEYERS: Anybody that's covered by the Ordinance.

MS. RORAPAUGH: And who are those people?

MR. MEYERS: Well --

MS. RORAPAUGH: Those are County Commissioners and their immediate family members, their spouses or domestic partners. Those are the entities that have standing to sue on the constitutionality of that provision.

MR. MEYERS: I don't know if that is the full extent of it, but certainly they would have standing.

MS. RORAPAUGH: And so they would have the standing?

MR. MEYERS: Well, they among perhaps others.

THE CHAIR: Last question. If you have something new let's move on, but we're going --

MS. RORAPAUGH: I want to read one other thing into the record.

THE CHAIR: Thank you,

MS. RORAPAUGH: I think everyone knows where we are going with this. I had correspondence with one of the Commissioners about this issue, and the use of Citizens United vs. FEC, et cetera, et cetera, and I'm not an attorney. But in my correspondence, I reminded the Commissioner that there are many Ordinances, many rules, many laws on the books in all areas of government restricting elected officials ability to lobby. And I want to read the response from counsel. "Ms. Rorapaugh is correct that there are many lobbying bans on the books,

including here in Texas, but as we all know there are many laws still on the books, some even disgraced and discriminatory; they are not or likely not enforceable." You know, these restrictions on lobbying, for federal employees and congressmen, for elected officials throughout government, all over the United States, are enforced daily. These are not fallow laws on the books.

MR. ROWLEE: May I respond to your concern if you'd like me to?

MR. RORAPAUGH: Yeah. Did --

THE CHAIR: Did you provide that response?

MR. ROWLEE: I researched the constitutionality issue from the First Amendment standpoint. And you are right. There are many laws on the books that restrict lobbying. And based on the Supreme Court's very recent decision in the Citizen United case, I believe that those restrictions on lobbying are now susceptible to challenge and invalidation. The fallout is already taking place. There is a Federal Court in Ohio who struck down a lobbying restriction based on the Supreme Court's Citizens United decision. And let me explain the context of that decision.

MS. RORAPAUGH: I actually read the decision.

MR. ROWLEE: It's a very interesting decision. It's a "revolving door," statute. And so what the State of Ohio did in that case was they enacted a Statute which prohibited form of legislators, of the State Legislature, from lobbying the Legislature within one year after leaving

office. The Court applied the Supreme Court's United Citizens decision and struck down that "revolving door," Statute as unconstitutional and as “violative,” of the First Amendment.

Now, what is happening here is in the United Citizen's case, the Supreme Court made it clear that any ban on speech and lobbying is considered core political speech is subject to what's called, “strict scrutiny.”

“Strict scrutiny,” is the most difficult, stringent, most rigorous test that has to be satisfied in constitutional law. And there's a saying that goes --

THE CHAIR: We're going to move on. We're not going to debate -- we're debating the court case.

MR. WOLFE: It's proper to go after the constitutionality of an Ordinance after it's adopted either by the Commission or the voters, so I'm tired -- that's our point, we don't want to argue --

MS. RORAPAUGH: Just tell them to vote against it. Save us $100,000.

THE CHAIR: Ms. Rorapaugh, please. Mr. Meyer's, I have a question for you.

MR. MEYERS: Yes, sir.

THE CHAIR: Is there a reason why the County Attorney's Office -- you know, I made a statement yesterday to a Commissioner, sometimes it's not what you do, it's how you do it. Why did I call for this meeting, why

did Robin call, why did whoever call for this meeting? Because we're responding to a memorandum that was give at the eleventh hour on a vote by the Commission, and we had questions. Is there a reason why the Count Attorney's Office, who was our representative, didn't contact me as the Chair, the County Administrator, call a meeting and say, hey, here's what we're doing, here's where we're going, and here's why we can't represent you anymore, but here are your options?

MR. MEYERS: Well, I think perhaps there were two reasons for it. The main reason is that Declaratory Judgment option really became part of memorandum, became part of the focus, because as I mentioned, the guts of the memorandum was written in response to that workshop issue, but then there was a specific request and the direction from our office was to provide recommendations. That was the first time that that issue was directly addressed and the thought was bringing a Declaratory Judgment action, and that was 6:30 on the 14th, and this was an item that was supposed to come up on the morning of the 15th. And trust me when I tell you, when things like that happen, they're scrambling and for whatever reason there was no communication by your attorney who had been representing you to just give you a "heads-up."

Second reason is that really at that point nothing -- that's published, by the way, the PBMI response with the memorandum was put online at whatever time it was made available to the Commissioners. There was really nothing that could have been done at that point except to

address the issue with the Commission. But I -- there was an oversight and it created a problem. I apologize for that.

THE CHAIR: I got it. It's clear. You have two clients. You had two clients.

MR. MEYERS: One client. Two sort of "arms," of it.

THE CHAIR: Two different parties that you represented from the same office. I guess my strife is that when you realized that there was conflict and you couldn't represent this client, the Board of County Commissioner's, a decision from your office was made to retain outside counsel to avoid any further conflict, but there was no decision to say, hey, we still have another "arm" here, we still have another client, let's retain outside counsel for them to avoid another conflict.

MR. MEYERS: Truthfully there is nothing that we see this -- aside from -- and you mentioned this at the beginning of the meeting -- and I think you said, in your normal, nice, gregarious way, that I looked forward to seeing everybody at the barbecue after we sunset, unfortunately we're here today. Nobody expected that there was anything else for this Commission to do. Now the Commission may find itself nominally on the other side of a case. Again, there's still some space between now and then, and we'll see, and I do want to have conversations with the County Attorney, and the County Attorney may need to have conversations with the Broward County Commissioners. But it wasn't an oversight; it wasn't to put you at a disadvantage in any way. There is

just nothing that was expected that you would do from this point forward.

THE CHAIR: And I don't believe it was the County Commission's intent to put us in a position where we're being sued, and certainly we will make sure that when we request representation that we word it in a way that they have an opportunity to make that right, because it's a heck of a way to be rewarded for public service. I'm having serious second thoughts about serving as a member of the MESC, because if the County Commission doesn't like that work product, I don't want to end up getting sued again. It's not a great reward for public service.

MR. MEYERS: It's a tough issue and we're going to get through it, and I can tell you that if someone who was involved in the drafting of the memorandum, it was not intended to be a slight on anyone here. Just as Mr. Fink said a number of times, it's not a personal thing. You all did a wonderful job. These issues happen sometimes, and that is why there are courts. It truly is not personal and if there is a way to avoid that outcome, we're still thinking, we're still trying to figure it out.

THE CHAIR: I agree and I would agree with my colleagues in closing that that's why there was a severability clause and that was given to us by our counsel, you know, in case something is challenged there, let's put this in there, and once it's voted up or down, if it's challenged that will take care of it.

MR. MEYERS: But you should not knowingly, just as a matter of public policy -- and certainly the legal advice I would give -- you should not

knowingly put something in there that is a substantial risk of being unconstitutional.

MR. SHECHTER: It was never raised.

MR. MEYERS: I'm sorry? No, no, no. Not you all.

MR. FINK: And the question was who raised it.

MR. MEYERS: What I'm saying to you, you prepared a work product, and that issue was not raised with you, but the Commission is the one that puts it on the book, the Commission is the one that votes on it. They're the legislative body. And that's the advice --

MR. WOLFE: Mr. Chair, I move to adjourn.

THE CHAIR: Motion to adjourn. Second by Commissioner Shechter. All in favor signify by saying, aye. Any opposed? Same sign. Motion carries.

(The meeting adjourned at 10:32 a.m.)