

**CHARTER REVIEW COMMISSION  
CONSTITUTIONAL OFFICERS SUB-COMMITTEE  
Minutes of Meeting  
March 18, 2010**

A meeting of the Constitutional Officers sub-Committee of the Charter Review Commission (CRC) was held at the Administration Complex, Room 106-B, Port Charlotte, Florida.

Roll Call:

The following members were present:

*Maureen Garrard (Chairman), Andy Dodd, Joseph Goggin, Suzanne Graham*

The following alternate was absent:

*Patricia Kelly*

Call to Order:

The meeting was called to order at 3:00 p.m. EST by *Chairman Garrard*

Agenda Items:

1. **Approval of Minutes** of February 18, 2010 Meeting: *Chairman Garrard* confirmed that all of the members present had previously reviewed a copy of these Minutes. There being no additions nor deletions the motion to approve these Minutes was made and seconded and the Minutes were accepted by unanimous vote.

2. **Interview with Frank Desguin, Charlotte County Property Appraiser:** *Chairman Garrard* thanked Mr. Desguin for his time in attending this meeting and Mr. Desguin greeted the members present. *Chairman Garrard* invited Mr. Desguin to begin speaking about his office. Mr. Desguin confirmed that his office was like the other Constitutional Officers, an elected position not really answerable to the Board of County Commissioners or the Administrator. Mr. Desguin indicated this structure was good as far as the system of checks and balances. He said that his office performs annual re-valuations as of January 1<sup>st</sup> of every year, and his preliminary rolls have to be in Tallahassee by July 1<sup>st</sup>. Mr. Desguin stated that although the Office of the Property Appraiser is independent and elected, everything they do is dictated by State law and the budget is overseen by the State. He said that the Board of County Commissioners has no authority over that budget, it is all overseen by the Department of Revenue. In response to a question by *Andy Dodd*, Mr. Desguin replied that funding is proportionate by most of the taxing authorities, saying that the BCC funds the School Board portion and any municipality in the County. He said that they basically fund ninety five (95%) percent of his budget and the remaining five (5%) percent is split up between the two water management Districts that levy within the County and West Coast Inland Navigation and the Boca Grande Fire District (a small portion). In response to a

comment by *Chairman Garrard*, Mr. Desguin confirmed that the BCC and the School Board are the only taxing authorities that levy County wide. He also indicated that none of the new exemptions or limitations applied to School taxes. Mr. Desguin again emphasized that his budget is overseen by the Department of Revenue and they review his tax rolls annually to make sure that all of the requirements of Florida law are met. Mr. Desguin said that Florida law sets appraisals at one hundred (100%) percent of Fair Market Value, although that value is not one hundred percent in the eyes of the public because of the adjustments that need to be made. *Chairman Garrard* asked him to describe those adjustments. Mr. Desguin said that final rolls are usually mid-October, but they are actually reflecting the January 1<sup>st</sup> valuation. Therefore that figure is already eight months old when the taxpayer receives their tax notice, which may cause consternation. He indicated that even though they have received a previous TRIM (Truth in Millage) Notice these usually go un-reviewed until that actual tax notice is received. Mr. Desguin said that with the current downturn in the market this is even more of a concern. Mr. Desguin continued with the explanation of adjustments, saying that Florida requires that to reach a just value the appraisal has to adjust for closing costs of a sale. He indicated that his Office uses a factor of fifteen (15%) percent for that adjustment. This is the amount used by the Department of Revenue, and it also applies fairly to all taxpayers. He further stated that they develop an indication of value by the cost approach, market approach or income approach (whichever is applicable) and that number is then adjusted downwards by fifteen percent to reach just value. Mr. Desguin gave a brief history, saying that when Governor Graham was serving he wanted to find a better way to fund School Boards. Governor Graham proposed doing this by enforcing the rule of one hundred percent valuation and this resulted in discussion which went to the Courts. The Florida Supreme Court determined that just value was legally synonymous with fair market value.

Mr. Desguin said that the only way to get the job done every year is to apply mass appraisal techniques. To do this they develop valuation models based on market data; cost, sales, income, etc. Mr. Desguin said that the valuation methods of his Office are very simple and they are applied uniformly. They deal with median values. Mr. Desguin said that they develop market adjustment factors using a cost approach. They value the land as if vacant (size and best use), add to that the replacement cost new of any improvements less depreciation, resulting in a figure for the developed cost approach. They then find sales in the neighborhood and compare the developed cost approach to the actual sales price, from that developing a calibration factor. Mr. Desguin acknowledged that it is inherent in any form of mass appraisal that a few properties will be valued less or more than their actual value. He mentioned that some of the purchases in today's market are just very good deals and not an accurate reflection of actual market value, using an example from a Petition hearing the previous day where a person had purchased property from a Bank for considerably less per square foot than it should have been valued. Mr. Desguin said that another task of his Office is to maintain the tax rolls as far as name changes, address changes, new subdivision parcels, etc. He mentioned additional administrative duties in addition to just determining values. Mr. Desguin said they deal with agricultural classifications and some new classifications this year. *Andy Dodd* asked if these would be non-ag classification. Mr. Desguin elaborated by mentioning classified values or exemptions created as a result of Amendments in the 2008 election. These included conservation easements, wind and renewable energy exemptions and a classified value for working waterfront. He said the only one that has had legislation passed is the conservation easement and his Office has had three applications. Mr. Desguin said that there are inquiries about the others but nothing can be done until legislation is passed for implementation.

*Chairman Garrard* asked Mr. Desguin to describe the process a taxpayer should use to dispute an assessment. Mr. Desguin replied that the first step would be to call or visit his office. He explained that at the same time the tax rolls are sent to Tallahassee on July 1<sup>st</sup>, his Office certifies the preliminary taxable values to each taxing authority. These taxing authorities develop their budget and they must then certify their proposed millage rates to the Tax Appraiser's office. Mr. Desguin indicated that this figure can be lowered but never raised after that certification. Mr. Desguin said that his office then prepares the TRIM notices. He mentioned that there is now considerably more information on these Notices, including the millage rates. He said that the taxpayer has twenty five (25) days to file a Petition if they so desire, adding that no one has to wait for the TRIM notice if they want to file a petition or call them. Mr. Desguin noted that the information on the website has been very helpful. He said that his office reviews every petition and makes a determination based on their findings and whatever additional information the taxpayer can provide. Based on that determination the taxpayer can either withdraw the petition or have the issue taken before a Special Magistrate appointed by the Value Adjustment Board. Mr. Desguin indicated there has been a change to the make-up of the Value Adjustment Board and it now seats two County Commissioners, a member of the School Board and a citizen member appointed by each of those bodies (ie., two citizen members). In Charlotte County the Value Adjustment Board has opted to hire a Special Magistrate who reports back to the Value Adjustment Board. *Chairman Garrard* asked if that means the taxpayer never gets to actually meet with the Board that is making the decision but just with the Special Magistrate, and Mr. Desguin confirmed this adding that these Value Adjustment Board meetings are all noticed public hearings which the taxpayer can attend. In response to another comment by *Chairman Garrard*, Mr. Desguin replied that there is some controversy but it is his opinion that the taxpayer cannot have an additional hearing as that eliminates the purpose of the Special Magistrate. He cited incidents in other counties where additional hearings are sometimes allowed, saying that his Office recently encountered that situation and he and the attorney for his Office argued that the VAB does not have the authority to allow another hearing. *Chairman Garrard* asked if the next step for an unsatisfied taxpayer was to file suit, and Mr. Desguin replied that was correct. He said that the law used to state that a taxpayer had to exhaust all administrative remedies before taking that step, but they can go straight to that now if they wish. *Chairman Garrard* inquired about the outcome of those suits. Mr. Desguin acknowledged that in a legal argument the office of the Property Appraiser will usually prevail because they are always just administering the law, but in a valuation argument it is not so clearcut.

*Chairman Garrard* indicated that she wanted to go through the prepared questions that are being asked of all the Constitutional Officers, telling Mr. Desguin that he could bring up whatever issues he wanted if they were not addressed in these questions.

What is your opinion of non-partisan elections for Constitutional Officers? Mr. Desguin replied that he thought these officers should be non-partisan, because it is a profession. He indicated that was the issue that he wanted to address. Mr. Desguin said he has been involved in the Property Appraiser's office for over thirty six years, as is probably the situation with his fellow Constitutional Officers. That is because these are their professions. He mentioned the School Board also being a non-partisan election. Mr. Desguin acknowledged that in some counties there are Property Appraisers who are much more involved in party politics.

What is your opinion on setting term limits for Constitutional Officers? Mr. Desguin replied that the Constitutional Officers are checked every four years by the voter, and if they are doing a good job no one is better able to determine if they stay than the people. Mr. Desguin said that there could be some Constitutional Officers within the State that are just figureheads, but in his opinion most are hard working professionals. He mentioned the fact that maybe being able to serve only eight years would discourage people from seeking office. In response to a question about licensing by *Chairman Garrard*, Mr. Desguin said that anyone who defeated him in an election could be the Property Appraiser. He said there is a designation process described by the Dept. of Revenue and with a certain level of experience and the successful completion of four appraisal courses an individual is awarded the designation of CFE (Certified Florida Evaluator). Mr. Desguin said that he already held that designation when he was elected Property Appraiser and it was then changed to a designation of CFA (Certified Property Appraiser). *Chairman Garrard* and Mr. Desguin said that they thought the time allowed for an incoming appraiser to achieve that licensing was eighteen months to two years. In reference to term limits, *Chairman Garrard* asked Mr. Desguin how long he thought it would take someone to achieve a level of mastery in the field, and Mr. Desguin indicated that may depend on the field that person came from in the private sector. He said that the basics are the same in all fee appraising, but there is a great deal of difference in the single property appraisal side and the mass appraisal application. Mr. Desguin also mentioned the enormous amount of time needed to become familiar with the nuances of Florida law, Statutes and case law.

What is your opinion on changing Constitutional Officers to an appointed position rather than elected? Mr. Desguin replied that he did not think that was a good idea, referring to some earlier comments he made about the checks and balances issue. Mr. Desguin also mentioned that during the recent real estate market downturn, appointed Property Appraisers would have been looking for a new job as the Commissioners would make them a scapegoat even though they were just doing their job correctly. Mr. Desguin said in all of his experience in Charlotte County he has never had any pressure put on him by a Commissioner. He acknowledged that there are some Charter counties in the State that have gone to appointed Constitutional Officers or have consolidated positions.

Do you have any alternative forms of funding? *Chairman Garrard* confirmed that the office of the Property Appraiser does not collect any money. Mr. Desguin replied that was correct. He said that it is aggravating in some respects, mentioning tax data that is collected from the website and then sold by vendors. Mr. Desguin said that could be an additional source of revenue for the County.

What are your observations regarding the relationship of Constitutional Officers and the Board of County Commissioners? Mr. Desguin indicated that he has an ongoing and good relationship with all of them. *Chairman Garrard* brought up the cooperation mentioned during other interviews with other Constitutional Officers and the sharing of certain costs, etc.

How do you enforce the Homestead Exemption eligibility? Mr. Desguin mentioned that it used to be that the back assessment only allowed the Property Appraiser to go back three years if the Homestead Exemption had been used fraudulently. He said that Save our Homes changed that to ten years, which Mr. Desguin much prefers. Mr. Desguin said that the checking procedure and cooperation with other

States and areas has been much improved over the years. He also mentioned that the Department of Revenue has also finally agreed to cross-check Social Security numbers, which is a good tool. Mr. Desguin indicated that in addition not only are they getting information back from other States, those areas are now contacting Charlotte County for information. He said that never used to be the case. *Andy Dodd* asked if these were States with a Homestead Exemption and Mr. Desguin replied that they were States with either a Homestead or similar homeowner tax exemption. There was brief discussion of recent cases involving State or national Representatives who had abused the system. Mr. Desguin said that most of the cases in Charlotte County would not qualify as fraud, many resulting from the death of parents or individuals for whom a death certificate was not filed properly. *Chairman Garrard* mentioned that a similar conversation about data took place while interviewing the Supervisor of Elections. *Ms .Garrard* asked if Mr. Desguin's office shared data with the Supervisor of Elections. Mr. Desguin replied that they did in some aspects but he was not sure if it was to that extent.

*Andy Dodd* asked Mr. Desguin if his staff limits were set through the Department of Revenue and Mr. Desguin replied that they were. In response to another question from *Mr. Dodd*, Mr. Desguin said that his number of positions have decreased a little over time. Mr. Desguin said he made a conscious decision after the Hurricane not to add any permanent staff.

*Chairman Garrard* and the members present thanked Mr. Desguin for his time.

3. **Public Input:** None
4. **Committee Comments:** None
5. **Adjournment:** The meeting was adjourned at 3:55 p.m. EST

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Maureen Garrard, Chairman