

Clearwater, Florida, April 24, 2006

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-950, Laws of Florida) was held in the Tampa Bay Regional Planning Council Conference Room, Suite 100, 4000 Gateway Centre Boulevard, Pinellas Park at 5:01 P.M. on this date with the following members in attendance:

Alan Bomstein, Chairman
Ricardo Davis, Vice-Chairman
Susan Latvala, County Commissioner
John Bryan, City of St. Petersburg Councilmember
George Jirotko, Circuit Court Judge
Katie Cole
Louis Kwall
Sallie Parks
Roger Wilson

Absent:

Jim Sebesta, State Senator
James F. Coats, Sheriff
Karen Burns
Robert C. Decker

Also Present:

Susan H. Churuti, County Attorney
James L. Bennett, Chief Assistant County Attorney
Stephen M. Spratt, County Administrator
David P. Healey, Executive Director, Pinellas Planning Council
Kurt Spitzer, KS&A
Other interested individuals
MaryAnn Penhale, Deputy Clerk

AGENDA

1. Welcome
2. Approval of Minutes
3. Discussion of Proposed Recommendations
4. Discussion of Combining Amendments

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5. Public Hearing Schedule
6. Other Business
7. Adjourn

WELCOME

Chairman Bomstein called the meeting to order; whereupon, he welcomed Sallie Parks as a member of the CRC appointed by the Board of County Commissioners (BCC).

MINUTES OF MEETING OF JANUARY 30, 2006 – APPROVED AS AMENDED

Upon presentation of the minutes of the meeting of January 30, 2006, Councilmember Bryan moved approval; whereupon, Mr. Spitzer related that Mr. Israel had requested his place of residence be indicated as the unincorporated area.

Thereupon, Councilmember Bryan restated his motion to approve the minutes as amended; seconded by Mr. Davis and carried.

DISCUSSION OF PROPOSED RECOMMENDATIONS

Chairman Bomstein briefly outlined procedures for tonight's meeting and indicated that Mr. Spitzer and Attorneys Churuti and Bennett will review subjects previously addressed by the CRC which they had approved to preliminarily move forward; whereupon, he noted that public input tonight will be limited strictly to technical aspects of the proposed charter changes related to language construction, nomenclature, or other similar issues; and that the next three public hearings will provide opportunities for citizen input regarding the merits of the issues.

Attorney Churuti referred to Tab 1 encompassing proposed Charter Amendments Nos. 1 and 2, which would provide for the development and operation of countywide mosquito and water and navigation control programs respectively, and indicated that these are basically technical amendments; whereupon, Chairman Bomstein related that he had not intended re-voting on the proposed amendments unless the members wish to do so; and responding to query by Mr. Kwall, indicated that it would be possible to combine these two items inasmuch as they represent housekeeping measures.

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Mr. Spitzer referred to Tab 2, which includes three proposed general charter amendments, and stated that proposed Charter Amendment No. 3 relates to the county administrator's employment powers; that it corrects some gender references in the Charter; and that it provides authorization for the county administrator to terminate the employment of senior staff without confirmation by the BCC and to terminate classified personnel subject to the policies contained in the county civil service plan. Responding to query by Mr. Kwall, Mr. Spitzer indicated that the language of the proposed amendment is intended to clarify existing practices; whereupon, he discussed the previously defeated amendment which had appeared on the November 2004 ballot. Discussion ensued regarding the language of the proposed amendment; and following additional input by Attorney Churuti, Chairman Bomstein suggested that the amendment remain as is.

Mr. Spitzer summarized proposed Charter Amendment No. 4 which would switch the cycle of future commissions to meet every eight years; and noted that the commission's recommendations could then appear on the presidential election ballot; that elected officials and government employees would not be eligible to serve on the CRC; that the CRC would be able to employ staff and retain its own experts; that a minimum of two public hearings would be required if any amendments to the charter were recommended; and that the CRC would be able to remain in existence until the general election for the purpose of conducting a public education or information campaign. Chairman Bomstein referred to wording on the next to the last page of proposed Charter Amendment No. 4 stating that the CRC shall conduct at least two public hearing at intervals of not less than ten days but not more than 20 days, and requested that 20 days be changed to 21. Responding to queries by the members, Mr. Spitzer indicated that the proposed amendment would give the CRC a time frame of approximately 1.5 years versus the current six months; that the 1.5 years is more in conformity with other CRCs; and that the proposed eight-year cycle is intended to coincide with presidential elections and would ensure a larger voter turnout. Responding to query by Mr. Wilson, Chairman Bomstein indicated that attendance requirements represent procedural matters, which would be more appropriately addressed at the time when a future CRC is convened.

Mr. Spitzer discussed proposed Charter Amendment No. 5 regarding the repeal of the requirement for the dual vote and indicated that if approved, the charter would be consistent with other county charters within the State of Florida; whereupon, Mr. Kwall suggested that the wording of the ballot question needs clarification.

In response to Chairman Bomstein's call for individuals wishing to speak regarding proposed Charter Amendment No. 5, City of Clearwater Mayor Frank Hibbard and John Hubbard, Esquire, representing the City of Gulfport, expressed their concerns and responded to queries by the members. Following their comments and discussion by the

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members, Attorney Churuti indicated that staff will revisit the issue of the wording of the ballot question and will attempt to submit revised language prior to the first public hearing; whereupon, Mr. Kwall invited the attorneys for the Cities of Clearwater and St. Petersburg to forward any suggested additions or changes to Attorney Churuti for consideration.

Attorney Bennett referred to Tab 3 and stated that five proposals previously approved by the CRC had been combined into the three proposed amendments contained therein; that proposed Charter Amendment No. 6 relates to miscellaneous controls regarding annexation including the need for gathering consents; that the proposed Section 2.07 1b attempts to capture a compressed time period during which consents can be obtained; and that the amendment encompasses a 30-day proposal for consents to be secured no earlier than 150 days and no later than 120 days prior to a referendum, which would allow the Supervisor of Elections an adequate amount of time to prepare the necessary election materials. Chairman Bomstein stated that Mr. Healey had expressed concerns that a 30-day window is not adequate for annexation initiatives to obtain all the affirmations needed; whereupon, he sought input from the members regarding the matter; and Attorney Bennett stated that the 30-day time frame could be modified. At the request of Chairman Bomstein, Mr. Healey expressed his concerns regarding the requirement for notice 60 days in advance of the first public hearing; and indicated that 30 days is not sufficient to assemble consents, test the validity of the consents, and determine if the annexation is a valid one to submit; whereupon, he stated that his suggestion would be to go to 180 days as the furthest date when petitions could be gathered with notice of the first public hearing being not less than 30 days.

Following discussion with additional input provided by Mr. Healey and Attorney Bennett; Councilmember Bryan moved that the wording in proposed amendment No. 6 1b be changed from 60 days to 180 days and from 30 days to 60 days; whereupon, Chairman Bomstein noted that the proposed 60 days would be prior to the first public hearing instead of the final adoption of the required ordinance; and Councilmember Bryan indicated that the aforementioned statement is included in his motion; seconded by Ms. Parks. Chairman Bomstein indicated that the motion would extend the window out six months from the first public hearing and allow a four-month period for gathering of consents and a 60-day cooling off period to the first public hearing. Following further discussion and upon call for the vote, the motion carried unanimously.

Responding to query by Ms. Cole, Attorneys Bennett and Churuti discussed the exclusion of publicly owned lands from being considered in annexations and the proposed amendment regarding the consent which may be revocable up until the closing of the public hearing at the final adoption hearing; whereupon, discussion ensued regarding the matter; and Chairman Bomstein inquired as to whether the members would prefer to

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change the language from “may be” revocable to “is” revocable; and Commissioner Latvala stated that she is in favor of the aforementioned language change.

Attorney Bennett referred to item No. 2 under proposed Charter Amendment No. 6, which addresses the seven-year limitation for subjecting any property to an annexation referendum from the last date that such property was last subject to a referendum annexation, and stated that item No. 3 with regard to notification would ensure that individuals potentially involved in an annexation would be notified 60 days prior to the first public hearing; whereupon, he discussed the gathering of consents under Subsections (5) and (6) of Section 171.0413 of the Florida Statutes. Responding to query by Chairman Bomstein, Mark Ely, Planning Department, supplied input regarding time frames related to notification procedures for voting referendums. Following additional discussion, Attorney Churuti indicated that the item would be rewritten; and Chairman Bomstein requested that the rewritten item be distributed in advance of the next meeting.

Discussion ensued related to the language of the ballot titles for proposed Charter Amendments Nos. 6, 7, and 8; and Chairman Bomstein suggested that the wording in the ballot title for proposed Charter Amendment No. 6 be changed from “enhance” annexation procedures to “strengthen” annexation procedures; and that the wording of the ballot question be amended to include a reference to placing a seven-year moratorium on repetitive annexation attempts; whereupon, Attorney Churuti stated that staff will address the matter.

Attorney Bennett discussed proposed Charter Amendment No. 7 regarding annexation incentives and stated that the language of the proposed amendment had been sent to the Cities of St. Petersburg and Clearwater; whereupon, Chairman Bomstein requested that the language of the ballot title be changed to “modify annexation procedures limiting incentive expenditures”; and suggested that the wording of the ballot question incorporate language regarding the expenditure of public funds that do not provide a paramount public purpose.

Attorney Bennett summarized proposed Amendment No. 8 regarding annexation consent controls and noted that the language attempts to place some restraints on the ability of cities to leverage consents in the case of individuals being annexed without their consent under Section 171.0413(6) where no referendum would take place; that the language requires 50 percent of the perimeter of the property would have to be adjacent to already incorporated parcels or properties owned by individuals who have consented to the annexation; and that the percentage of consenting property owners has been raised to 66 percent; whereupon, Chairman Bomstein stated that he would like language incorporated into the amendment which excludes publicly owned property from the 50 percent perimeter and the 66 percent of consenting property owners. Discussion ensued; and

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Attorney Bennett indicated that the 50 percent perimeter would include publicly owned lands; and that wording could be added to the 66 percent requirement to specify not counting state, county, or special district properties. Responding to query by Councilmember Bryan, Chairman Bomstein indicated that properties such as the Pinellas Suncoast Transit Authority (PSTA) could still voluntarily annex; however, public properties would not be included in meeting the test for involuntary annexation. Discussion continued; and Mr. Healey provided additional input regarding the non-referendum referendums, which have taken place over the past six years and the standards being set forth in the proposed amendment; and Chairman Bomstein requested that the 66 percent be amended to 67 percent in order to ensure a full two-thirds requirement.

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At the direction of Chairman Bomstein, there being no objection, the meeting was recessed at 6:36 P.M. and reconvened at 6:57 P.M.

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Mr. Spitzer referred to Tab 4 regarding fire policy and stated that there are several ways to pursue the proposed options for consideration; that the first option is related to the authority of the BCC to set standards for fire protection; that the proposed amendment would revise the charter to include countywide fire protection; and that the study by MGT of America, Inc. had recommended a single countywide independent fire district. He reviewed the various methods of putting the proposed policy change into effect, including placing an amendment on the November 2006 ballot which would require a dual vote, submitting a recommendation to the BCC to place the amendment on the November 2008 ballot, or making a recommendation to the legislative delegation that they consider passing a special act in the 2007 session; whereupon, Chairman Bomstein pointed out that the various options are enumerated in the matrix at the beginning of Tab 4. Discussion ensued regarding the issues of taxing inequities and the possibility of saving money through consolidation as recommended in the MGT of America, Inc. study, and Mr. Kwall indicated that he had received input from numerous individuals who are not in favor of the proposed changes.

Following additional deliberations, Mr. Kwall moved, seconded by Judge Jirotko, that the proposed charter amendment be removed from consideration. At the request of Mr. Wilson, Mr. Spitzer discussed the first issue related to the fire standards question which authorizes the BCC to set policy; and following further discussion, Chairman Bomstein obtained clarification from Mr. Kwall that his motion relates to the recommended Special Act No. 2 providing for the dissolution of the independent fire special districts. Mr.

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Spitzer explained that this recommended special act would encompass a recommendation to the legislative delegation for consideration in the 2007 session; that it would abolish the East Lake, Lealman, Palm Harbor and Pinellas Suncoast fire districts; and that the programs, assets, and personnel of the special districts would be transferred to the Municipal Services Taxing Unit (MSTU) under the control of the BCC. Discussion ensued; and John Little, Pinellas County Council of Firefighters, provided input regarding Pinellas Suncoast Fire & Rescue. Upon call for the vote, the motion carried 5 to 4, with Messrs. Bomstein, Davis, and Wilson and Ms. Cole casting the dissenting votes.

At the direction of Chairman Bomstein, Mr. Spitzer continued his review of amending the charter to provide for countywide fire protection planning, coordination, and regulatory authority; whereupon, Councilmember Bryan stated that this item should also be removed from consideration.

Responding to the Chairman's call for individuals wishing to speak, Maggie Mooney, Bradenton, representing the East Lake Fire & Rescue District and the Palm Harbor Fire District, expressed her concerns.

Following discussion, Councilmember Bryan moved to eliminate all three items from consideration; whereupon, Chairman Bomstein suggested that the motion be restated to not proceed any further with a countywide fire protection plan; and the maker of the motion concurred; seconded by Commissioner Latvala. Following additional discussion and upon call for the vote, the motion carried 5 to 4, with Messrs. Bomstein, Davis, and Wilson and Ms. Cole casting the dissenting votes.

Attorney Churuti referred to Tab 5 and discussed recommended Special Act No. 3 for the 2007 session regarding the authority for the repeal of the charter and queried as to whether the members wish to go forward with the item; whereupon, Commissioner Latvala stated that she is in favor of doing so; Chairman Bomstein expressed concerns regarding the public's understanding of the proposal; Councilmember Bryan indicated that he believes the cities have no problem with proceeding with the ballot question; and Ms. Parks suggested retaining the item for possible citizen input at the public hearings. Discussion ensued; and in reply to query by Mr. Wilson, Attorney Churuti explained procedures related to repeal of the charter and adoption of a new one; and Judge Jirotko suggested leaving the item on.

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DISCUSSION OF COMBINING AMENDMENTS

Chairman Bomstein discussed the possibility of combining the two housekeeping items under Tab 1, the Mosquito Control and Water and Navigation Programs into one amendment; whereupon, Commissioner Latvala stated that she supports combining the two items.

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At this time, 7:44 P.M., Judge Jirotko left the meeting.

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Deviating from the agenda, Chairman Bomstein recognized Norman Roche, Clearwater, who stated that he wishes to address a technical correction regarding proposed Charter Amendment No. 3 related to the County Administrator's employment powers; whereupon, he referred to the county civil service plan referenced in the amendment, and inquired as to whether the title of the document should be capitalized. Attorney Churuti stated that the reference to the county's civil service plan represents language taken from the special act of the legislature and is not capitalized in the special act; and in reply to query by Mr. Roche, indicated that a copy of the plan can be obtained from the Director of Personnel or the Chairman of the Unified Personnel Board.

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Referring to proposed Charter Amendments Nos. 1 and 2, Attorney Churuti indicated that there would be no problem in combining the two; whereupon, she stated that the more complicated amendments pose issues related to word limitation requirements for the ballot titles and questions; and that possible legal challenges could arise if citizens' due process rights are violated by not fully describing what is in the legislation being combined. Chairman Bomstein noted consensus that the three amendments under Tab 2 would remain separate; and referring to Tab 3, stated that the proposed Charter Amendment No. 6 regarding miscellaneous controls related to annexation will be rewritten and should stand alone; and that it might be possible to combine proposed Charter Amendments Nos. 7 and 8; whereupon, Attorney Churuti stated that she would attempt to combine the two but expressed concerns related to meeting due process requirements. Discussion ensued regarding the pros and cons of combining the amendments and the matter of possibly having fewer items on the ballot; whereupon, Chairman Bomstein referred to Attorney Churuti's concerns regarding combining the annexation amendments; Commissioner Latvala stated that she would rather leave the

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amendments separate; and Mr. Kwall indicated that he relies on Attorney Churuti's judgment in the matter.

PUBLIC HEARING SCHEDULE

Chairman Bomstein announced that the next three meetings will be held on May 8 and 22 and June 8; that the May 8 meeting will be held at tonight's location and will represent a central county location; and that north and south county locations will be needed for the following two meetings; whereupon, he sought input from the members regarding meeting locations. Following discussion regarding various location possibilities, Chairman Bomstein indicated that he would provide the members information regarding the meeting locations in the near future; whereupon, he requested member feedback regarding an appropriate starting time for the meetings. Responding to query by Mr. Wilson, he stated that he does not intend to have public comment at the final meeting tentatively scheduled for June 19, other than input of a technical nature such as that received at tonight's meeting.

Attorney Churuti suggested the following language regarding the dual vote requirement: "Shall Section 6.04 of the Charter be amended to provide that any elections about city, county, or special district powers need only follow requirements of the Florida Constitution?" Following discussion, she indicated that staff would continue to work on the matter of wording changes.

Chairman Bomstein noted consensus to have the public hearings start at 6:00 P.M.; and reiterated that he will inform the members of definitive locations in the near future.

OTHER BUSINESS

Mr. Wilson offered an observation regarding the commission's vote not to proceed with the proposed amendments related to fire policy.

At the request of Chairman Bomstein, Mr. Spitzer presented a brief update regarding an initiative in Tallahassee to impose a dual vote requirement statewide.

ADJOURNMENT

At the direction of the Chairman, there being no objection, the meeting was adjourned at 8:09 P.M.