

Largo, Florida, April 20, 2016

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-590, Laws of Florida) was held at the County Extension Services Center, Largo, Florida, on this date with the following members in attendance:

James Olliver, Chairman
Thomas Steck, Vice-Chairman
Larry Ahern, State Representative
Sandra L. Bradbury, City of Pinellas Park Mayor
Ken Burke, Clerk of the Circuit Court and Comptroller
Janet C. Long, County Commissioner (late arrival)
Johnny Bardine
Keisha Bell
Ashley Caron
Barclay Harless (late arrival)
Todd Pressman
James Sewell
Joshua Shulman

Also Present

Wade Vose, Vose Law Firm, General Counsel
Diane Meiller-Cook, Diane Meiller & Associates, Inc. (DM&A), Facilitator
Flo Sena, DM&A
Mary Scott Hardwick, Pinellas County Intergovernmental Liaison
Other Interested Individuals
Laura M. Todd, Board Reporter, Deputy Clerk
(Minutes by Helen Groves)

AGENDA

1. Call to Order (CRC Chairman)
2. Public Comment on Items on this Agenda (CRC Chairman)
3. Approval of Minutes – April 6, 2016 Meeting (CRC Chairman)
4. Charter Amendment Topics
 - a. Non-Conforming Properties (Steck)
 - b. Amendments via Citizen Petitions (DM&A)
 - c. Redistricting (Harless)

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5. Draft Final Report Review
 - a. Language for Amendments (Vose)
 - b. Recommendations (DM&A)
 - c. Final Report Format and Content (DM&A)
6. Dates/Time/Location (CRC Chairman)
7. Review of Action Items (CRC Chairman)
8. Adjournment (CRC Chairman)

CALL TO ORDER

Chairman Olliver called the meeting to order at 3:33 P.M. and welcomed those in attendance.

PUBLIC COMMENT

John Shaw, St. Petersburg – Citizen Petitions (Submitted Data Sheet)

Reduce signature requirement to five percent and eliminate requirement for signatures to be from certain districts.

Dan Jordan, Clearwater – Citizen Petitions

Reduce signature requirement to five percent.

Freddy Ferro, St. Petersburg – Motion to Include Revocation of Term Limits for Commissioners in White Paper

Show on white paper that the CRC rejected citizens' requests to put term limits in the Charter.

Marcus Harrison, Palm Harbor

Reduce signature requirement to five percent.

CRC should represent Pinellas County citizens, not elected officials or the establishment.

Barbara Haselden, St. Petersburg – Petitions (Submitted Chart re Signature Requirements in Other Counties)

Reduce signature requirement to five percent.

MINUTES OF APRIL 6, 2016 MEETING – APPROVED

Upon presentation by Chairman Olliver, Mr. Sewell moved, seconded by Mr. Shulman and carried unanimously, that the minutes of the meeting of April 6, 2016 be approved.

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CHARTER AMENDMENT TOPICS

NON-CONFORMING PROPERTIES – WITHDRAWN AND REMOVED FROM LIST

Mr. Steck reported that the matter has been satisfactorily resolved.

AMENDMENTS VIA CITIZEN PETITIONS – APPROVED; DISCUSSION RE DISTRICTS DEFERRED TO NEXT MEETING

Noting that the item was deferred at the last meeting, Ms. Meiller-Cook related that the current ten-percent requirement for signatures and the 180-day time limit to gather the signatures makes it difficult to get an item on the ballot outside the CRC process and discourages citizen participation; whereupon, Mr. Sewell commented that while he was not involved in the earlier discussion, it would seem logical to reduce the signature requirement to five percent and leave the number of days allowed to gather the signatures at 180.

Clerk Burke indicated that at the conclusion of the discussion at the last meeting, the CRC arrived at a compromise via lowering the signature requirement and increasing the number of days allowed to gather the signatures. Chairman Olliver clarified for the record that the motion on the floor, made by Mr. Steck and seconded by Representative Ahern, is to lower the signature requirement from ten percent to eight and increase the number of days allowed to gather the signatures from 180 to 240; whereupon, at the request of Mr. Steck, Attorney Vose discussed the data provided showing how other Charter counties in Florida handle the issue, noting that the requirements vary considerably, and discussion ensued.

Thereupon, Representative Ahern offered a friendly amendment to change the requirement to six percent and the number of days to 240, and Mr. Steck and the seconder accepted the amendment.

Clerk Burke and Mr. Pressman expressed concern regarding the authenticity of the data presented, and Attorney Vose explained how he arrived at the figures.

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Mr. Harless and Commissioner Long entered the meeting at 3:54 and 3:59 P.M., respectively.

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For the benefit of the late arrivals, Chairman Olliver provided a review of the item, and stated for the record that the motion now on the floor is for a six percent signature requirement and 240 days to gather the signatures. In response to query by Mr. Shulman, Ms. Meiller-Cook indicated that the research he had requested regarding failed citizen petitions had not been conducted; whereupon, expressing concern that the average shown in the chart is skewed, Mr. Shulman indicated that he would support an eight percent requirement, and discussion ensued regarding the percentage of signatures required in State government.

During discussion, Representative Ahern commented that fear seems to be keeping the CRC from making it easier for citizens to put their initiatives forward through the ballot process. Commissioner Long related that she feels the reluctance is a recognition that amending the Charter is a serious matter, and Mr. Harless concurred. Citing the purchase of preservation land, the class-size amendment, and the lottery being used to support the schools, Clerk Burke commented that he would not want Pinellas County to take citizen initiatives as lightly as does the State; whereupon, he stated that the consensus of the members at the last meeting was to liberalize both requirements, which would empower the citizens but keep the safeguards intact.

Mr. Harless suggested that the Commission could consider increasing the percentage of votes required to pass an amendment, and Attorney Vose pointed out that the State Constitution states that a Charter may be amended by a “vote of the electors,” which is defined as 50 percent plus one.

Chairman Olliver called for a vote on the motion on the floor for a six percent signature requirement and 240 days to gather the signatures; whereupon, Clerk Burke offered an amendment to the motion to strike the six percent and substitute eight percent, seconded by Commissioner Long. In response to query by the Chairman, Clerk Burke indicated that his motion was not intended as a friendly amendment.

Attorney Vose advised that the topic to be debated is whether to approve Clerk Burke’s amendment. During discussion, Clerk Burke indicated that his amendment does not change the number of days, 240, allowed to gather the signatures; and Attorney Vose provided procedural information.

Upon call for the vote, the amendment changing the percentage requirement for signatures needed from six to eight carried 10 to 3, with Representative Ahern and Messrs. Harless and Steck casting the dissenting votes.

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Chairman Olliver indicated that the motion on the floor is for an eight percent signature requirement and 240 days to gather the signatures. In response to queries by Clerk Burke, Attorney Vose provided information about the restrictions pertaining to the districts as shown on the data sheet submitted by Mr. Shaw, and discussion ensued wherein Mayor Bradbury related that the reason for the district requirements is to ensure that if a petition is introduced in one part of the county that would affect the entire county, all the people would have a voice; whereupon, Ms. Caron suggested that the district portion be voted on separately, as she would like to have more information.

Upon the Chairman's call for citizens wishing to be heard, the following individuals appeared and expressed their concerns that the eight percent requirement places an onerous burden on the citizens; and that the CRC seems to be representing the government, not the people:

John Shaw
Marcus Harrison
Barbara Haselden
Freddy Ferro

Upon call for the vote, the motion to change the signature requirement to eight percent and the number of days to gather the signatures to 240 days carried 11 to 2, with Representative Ahern and Mr. Harless casting the dissenting votes.

Mr. Steck offered an amendment that no more than 30 percent of signatures may be received from one district. Chairman Olliver pointed out that Ms. Caron had requested that more information be provided before the district issue is brought to a vote; whereupon, Mr. Steck withdrew his amendment, and discussion ensued.

Mr. Shulman moved, seconded by Clerk Burke, that the 40 percent requirement for the at-large districts be removed and the matter be decided at this time. Commissioner Long expressed concern that Broward County is being used as a comparison, noting that the demographics and issues of the two counties are very different; whereupon, she recommended that the matter be researched to determine the rationale for the current rule, and Mr. Harless concurred.

Clerk Burke indicated that he had seconded Mr. Shulman's motion in order to have something definite for the CRC to consider; whereupon, he moved, seconded by Mr. Sewell, that the motion be tabled in order for due diligence to be exercised regarding unforeseen circumstances. Representative Ahern commented that removing the 40 percent district requirement seems straightforward; and that it would ease the burden on the Supervisor of Elections.

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Upon call for the vote, the motion to table the item carried 12 to 1, with Representative Ahern dissenting. Chairman Olliver directed that the facilitators provide historical information about the district requirements, and Attorney Vose agreed to provide examples of actions other counties have taken; whereupon, Clerk Burke expressed appreciation that the CRC is honoring its policy to not vote on items at the same meeting they are introduced.

REDISTRICTING – AMENDMENTS REMOVING SUPERVISOR OF ELECTIONS AS MEMBER OF CITIZEN ADVISORY BOARD AND CHANGING TIMEFRAME FOR ISSUANCE OF REPORT – APPROVED

Ms. Meiller-Cook indicated that a Charter referendum amendment was approved at the April 6 meeting creating an independent citizen advisory board to review U.S. Census data and provide options for redistricting to the Board of County Commissioners (BCC).

Mr. Harless stated that there were certain elements in the Charter amendment that needed to be finalized; and related that he had met with the Supervisor of Elections regarding serving on the new citizen advisory board and she had persuaded him that the impartiality and credibility of her office would suffer if she became involved; whereupon, he moved, seconded by Commissioner Long, that the Supervisor of Elections be removed as an ad hoc member, and the new board be comprised of 11 citizens. In response to query by the Chairman, Mr. Harless confirmed that the original motion included the Supervisor of Elections as a non-voting member; and that his motion strikes all mention of the Supervisor and, essentially, the 12th member, leaving just the 11 citizens.

In response to queries by Mr. Steck and Ms. Caron, Mr. Harless indicated that the Supervisor of Elections Office would provide data to the new board when requested. In response to query by Mr. Pressman regarding funding for the new board, Mr. Harless surmised that Section C would apply: *“Expenses of the CRC shall be verified by a majority vote of the CRC and forwarded to the BCC for payment from the General Fund of the County. The Board of County Commissioners shall provide space, secretarial and staff assistance.* Attorney Vose indicated that he would do some research as he formalizes the language of the amendment. Discussion ensued regarding the fiscal impact, and Representative Ahern offered to take up the motion.

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

Upon call for the vote, the motion carried unanimously.

Referring to another element of the approved Charter amendment that was to be verified, Mr. Harless related that the Supervisor of Elections had advised him to eliminate the specific date of September 1, 2021, and replace it with a certain number of days; whereupon, he moved,

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seconded by Mr. Steck, that the Board must issue a final report, including a proposed map, or maps, within 180 days of the County formally receiving the U.S. Census data; and that the remainder of the amendment remain the same.

During discussion and in response to a comment by Mayor Bradbury, Mr. Harless confirmed that there would not be an overlap with the County Commission election.

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

Upon call for the vote, the motion carried by a vote of 11 to 2, with Commissioner Long and Ms. Bell casting the dissenting votes.

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Messrs. Shulman and Bardine left the meeting at 4:59 P.M., Representative Ahern left at 5:10 P.M., and Commissioner Long left at 5:14 P.M.

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DRAFT FINAL REPORT REVIEW

LANGUAGE FOR AMENDMENTS

Attorney Vose reviewed the requirements for ballot titles and summaries as outlined in the Florida Statutes, and indicated that the Courts have explained in numerous cases that a ballot question has to state the chief purpose of the amendment, called a "truth in packaging requirement," and has to adequately inform the voters of the broad scope of what is being accomplished, without necessarily going into detail; whereupon, he requested that as he reviews each amendment, the members evaluate the language in relation to the following considerations: (1) that the Charter language is implementing what the members intended to be implementing, and (2) that the summaries would be adequately clear to a reasonable voter.

Question #1 – Pinellas Charter Cleanup Amendment - Approved

Attorney Vose read the ballot title and summary and, following discussion, reviewed the actual text changes, including Section 2.04, Special Powers of the County; Section 2.07, Annexation; Section 3.01, Board of County Commissioners; and Section 5.02, Special Laws. Discussion ensued about possibly changing the wording in the summary to make it easier for the average citizen to understand, but it was determined that the language would remain as presented.

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Noting that this is a procedural matter and there is no need for public comment, Chairman Olliver confirmed there is a quorum.

Thereupon, Mr. Harless moved, seconded by Ms. Bell, that the ballot language and the implementation of the textual provisions be approved.

Question #2 – County Commissioner Nomination of Charter Review Commission Members Residing in Commissioner’s District – Approved as Amended

Attorney Vose read the ballot title and summary; whereupon, Mr. Sewell moved, seconded by Mr. Harless, that the ballot language be approved. Mr. Steck suggested that the title be amended to *Charter Review Commission Members Residence Requirements*, and Attorney Vose agreed to the title change, and the members concurred. Upon call for the vote, the motion carried unanimously.

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At this time, 5:36 P.M., Mayor Bradbury left the meeting.

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Question #3 – Oversight of County Attorney by Committee of County Commissioners and County Officers – Continued to Next Meeting

Chairman Olliver confirmed that there is a quorum.

Attorney Vose indicated that this Charter amendment relates to Clerk Burke’s proposal relating to the County Attorney and brings the five Constitutional Officers into the process for selection, termination, and direction and control.

Attorney Vose related that he had earlier advised the CRC that the Clerk’s proposal to have the County Attorney answerable to both the County Commissioners and the Constitutional Officers could be effectuated into the Charter, but on further reflection and research, he is concerned that the proposal could have unintended consequences. Noting that he has requested and reviewed the County’s Conflict Policy, he stated that the provision might create some ethically untenable situations for the County Attorney should there be litigation between the County and the Constitutional Officers; that it could put the County Attorney in a compromise situation with the Florida Bar’s *Rules of Professional Responsibility*, which the Courts enforce; and that the matter relating to the power of termination is also of concern, noting that he is not sure whether this

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could be a basis for the amendment to be struck from the ballot or could be found to be illegal if it was put in the Charter and challenged.

In response to queries by Clerk Burke, Attorney Vose stated that he had contacted the County Attorney's Office for the sole reason of obtaining a copy of the conflict policy, which he received; and that he spoke with Attorney Jewel White, who was very careful not to express any concerns she may have.

Clerk Burke stated that the Charter currently reflects that the County Attorney represents all the Constitutional Officers and the Board of County Commissioners, which, if the advice of Attorney Vose is correct, is where the ethical conflict takes place and is why there is the nine-page conflict policy document. He related that his understanding is that when a conflict arises between the BCC and the Constitutionals, the current remedy is to engage outside counsel.

Clerk Burke related that during the 21 years he worked with a law firm, he served three years on the Florida Bar Grievance Committee and handled ethical matters; and that he is very familiar with the Florida Bar Rules and supportive of the principles regarding ethics. He stated that he is of the opinion that the proposed amendment actually provides protection to the County Attorney's Office, as the Oversight Committee would ensure that a conflict policy is actually enforced; and that, currently, while there is a conflict agreement, the County Attorney's boss is the County Commission, which places a much stronger ethical dilemma on the County Attorney.

Clerk Burke suggested that there were two possible solutions: (1) completely remove the language from the Charter that the County Attorney represents the Constitutionals, and add a provision that the BCC shall fund the Constitutionals for their own representation, or (2) incorporate this amendment into the Charter. He related that without the amendment, which the CRC has already approved, the provision in the Charter that the County Attorney represents the Constitutionals is meaningless; as an entity must have the ability to hire or fire the attorney that represents it.

Clerk Burke reiterated that the Charter amendment has already been debated and approved, and the CRC policy is not to reconsider an item once it has been voted on; whereupon, he stated that this solution makes the current system work; and that not only does it not change the conflict agreement, but the Oversight Committee will ensure the agreement is honored.

Attorney Vose acknowledged that the CRC policy is not to reconsider an item once it has been voted on. He stated that since he answers to each of the members, he felt he should mention it; that he is relating a possible consequence that he had not brought up before; and that the matter is

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not necessarily illegal on its face; whereupon, he requested additional time to consider the matter.

During discussion, Mr. Harless indicated that both Attorney Vose and Clerk Burke have made salient points; that his problem with the Clerk's case is due to his concerns that the BCC has the ability to fire the County Attorney in the current Charter, but will lose that right under this Charter amendment; and that the amendment fundamentally changes the ability for the Constitutional Officers to seek retribution if there is a conflict; whereupon, he asked that the discussion be deferred until a full Commission is present.

Mr. Steck suggested adding language reading *when there is any legal conflict between members of the Committee, the County Attorney shall be prohibited from representing either side*; whereupon, Attorney Vose indicated that his concerns are that the conflict policy is not incorporated in the amendment; and that the Constitutional Officers would have the ability to fire the County Attorney at any time, even in the midst of bitter litigation.

Clerk Burke stated that the conflict policy has not been approved by the Constitutional Officers; and that the current situation is problematic. He related that one reason Pinellas County does not have the problems other counties do is that the County Attorney's Office represents both the BCC and the Constitutionals; and that the Constitutionals having their own attorneys would incite conflict with the BCC, which is costly and would upset the citizens.

Chairman Olliver directed that the discussion be continued until the next meeting; whereupon, in response to a request by Ms. Bell, Attorney Vose agreed to provide a copy of the County's Conflict Policy to all the members.

RECOMMENDATIONS – NOT DISCUSSED

FINAL REPORT FORMAT AND CONTENT

Ms. Meiller-Cook reported that the facilitation team, along with Attorney Vose, has started to put together the final Charter Review Commission Report; that the purpose of the report is to provide access for the BCC and the public to review the process and see how the final decisions were made; and that the report should accurately reflect what members want it to say, as they will be asked to sign it. She indicated that the appendix will include the minutes of the meetings and snapshots of the website, as well as content not pertinent to the referendum amendments; and that the report will be succinct and easy for anyone to follow.

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In response to the concerns of Mr. Pressman regarding the cost of the report, Ms. Meiller-Cook indicated that she and Attorney Vose are working together to ensure that the total budget remains intact. Mr. Pressman and Ms. Caron indicated that they like the format, and the draft summaries seem to be accurate and unbiased. Chairman Olliver indicated that there would not be a White Paper; and, noting that the final report is a work in progress, asked the members to bring to the attention of the facilitator anything they find in the report that appears too adversarial or promotional.

DATES/TIME/LOCATION

Chairman Olliver announced that the CRC will meet at this location on May 4 and 18, and the two public hearings will be held at the St. Petersburg City Council Chamber on June 1 and in the County Commission Assembly Room in Clearwater on June 15.

REVIEW OF ACTION ITEMS

Chairman Olliver indicated that the next meeting's agenda would include the following topics:

- Continuation of the discussion regarding district percentages for citizen petitions.
- Fiscal impact of Charter amendments.
- Continuation of the review of the final report, including Clerk Burke's Charter amendment re the County Attorney and the Redistricting Advisory Committee.
- Format for the public hearings.
- Decide whether to remain constituted until after the election.

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At this time, 5:56 P.M., Mr. Pressman left the meeting.

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ADJOURNMENT

Upon motion by Mr. Sewell, seconded by Mr. Steck and carried unanimously, the meeting was adjourned at 5:57 P.M.