



M E M O R A N D U M

TO: 2016 Pinellas County Charter Review Commission
FROM: Wade C. Vose, Esq., General Counsel
DATE: May 3, 2016
SUBJECT: Revised Draft of Ballot and Charter Language for County Attorney Oversight Committee Charter Amendment

Pursuant to the Commission's request, I have prepared revised ballot and charter language for the proposed charter amendment relating to the county attorney to address the issues I raised at the end of your last meeting concerning the potential legal and attorney-ethical implications of the prior draft.

Without belaboring the matter, the revised draft provided below addresses the issue raised concerning potential confusion relating to direction and control of the county attorney's office, as to both administrative matters and representation of the county government.

To summarize, the revised draft is substantially identical to the initial draft in vesting the power to hire and fire the county attorney in the County Attorney Oversight Committee. However, the revised draft has substantially changed the last sentence of Section 4.02(a), maintaining the existing charter language that the office of county attorney is under the direction and control of and directly responsible to the board of county commissioners, rather than the County Oversight Committee, but subjecting the office of county attorney to annual review by the County Attorney Oversight Committee. Additionally, a sentence was added to the end of Section 4.02(a) to clarify that the present county attorney would not need to be "re-selected", but that all other provisions of the amendment would apply to him.

Revised Ballot and Charter Language

A. Ballot Proposal: The ballot title and summary for Question #3 are as follows:

SELECTION, TERMINATION, AND ANNUAL
REVIEW OF COUNTY ATTORNEY BY COUNTY
COMMISSIONERS AND CONSTITUTIONAL
OFFICERS

Shall the Pinellas County Charter be amended to provide that the County Attorney shall be selected by, serve at the pleasure of, and be subject to annual review by, a committee consisting of the seven county commissioners and the five county constitutional officers (sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court), rather than the board of county commissioners alone?

____ Yes

COUNSEL TO EXTRAORDINARY FAMILIES, BUSINESSES & LEADERS WORLDWIDE SINCE 1973

324 W. MORSE BOULEVARD • WINTER PARK, FLORIDA 32789

TELEPHONE: (407) 645-3735 • FACSIMILE: (407) 628-5670 • TOLL FREE: (866) 789-VOSE

INTERNATIONAL TEL. (LONDON, ENGLAND): +44 (0)20 3355 1473 • INTERNET: WWW.VOSELAW.COM

_____ No

B. Text Revisions: Section 4.02 of the Pinellas County Charter is amended to read as follows:

Sec. 4.02. – County attorney.

- (a) There shall be a county attorney selected by ~~the board of county commissioners~~ a county attorney oversight committee, consisting of the county commissioners and the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court, who shall serve at the pleasure of the ~~board~~ county attorney oversight committee. The office of county attorney shall not be under the direction and control of the county administrator but shall instead be responsible directly to the board of county commissioners, and shall be subject to annual review by the county attorney oversight committee. The county attorney as of the effective date of this amendment shall not be subject to the selection provision of this subsection, but shall be subject to all other provisions hereof.
- (b) The county attorney shall be an attorney licensed to practice law in the State of Florida for at least three (3) years. Upon appointment, he shall be employed full time by said county. The county attorney shall employ such assistant county attorneys and special assistant county attorneys, on either a full-time or part-time basis, as may be necessary, upon approval of the board of county commissioners.
- (c) The office of county attorney shall be responsible for the representation of county government, the board of county commissioners, the county administrator, constitutional officers and all other departments, divisions, regulatory boards and advisory boards of county government in all legal matters relating to their official responsibilities. The office of county attorney shall prosecute and defend all civil actions for and on behalf of county government and shall review all ordinances, resolutions, contracts, bonds and other written instruments.

Previous Version of Ballot and Charter Language

For ease of comparison, the previous version of the referenced ballot and charter language is provided below:

A. Ballot Proposal: The ballot title and summary for Question #3 are as follows:

OVERSIGHT OF COUNTY ATTORNEY BY
COMMITTEE OF COUNTY COMMISSIONERS AND
COUNTY OFFICERS

Shall the Pinellas County Charter be amended to provide that the County Attorney shall be selected by, serve at the pleasure of, and be directly

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responsible to, a committee consisting of the seven county commissioners and the five county officers (sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court), rather than the board of county commissioners alone?

_____ Yes
_____ No

B. Text Revisions: Section 4.02 of the Pinellas County Charter is amended to read as follows:

Sec. 4.02. – County attorney.

- (a) There shall be a county attorney selected by ~~the board of county commissioners~~ a county attorney oversight committee, consisting of the county commissioners and the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court, who shall serve at the pleasure of the ~~board~~ county attorney oversight committee. The office of county attorney shall not be under the direction and control of the county administrator but shall instead be responsible directly to the ~~board of county commissioners~~ county attorney oversight committee.
- (b) The county attorney shall be an attorney licensed to practice law in the State of Florida for at least three (3) years. Upon appointment, he shall be employed full time by said county. The county attorney shall employ such assistant county attorneys and special assistant county attorneys, on either a full-time or part-time basis, as may be necessary, upon approval of the board of county commissioners.
- (c) The office of county attorney shall be responsible for the representation of county government, the board of county commissioners, the county administrator, constitutional officers and all other departments, divisions, regulatory boards and advisory boards of county government in all legal matters relating to their official responsibilities. The office of county attorney shall prosecute and defend all civil actions for and on behalf of county government and shall review all ordinances, resolutions, contracts, bonds and other written instruments.