



MEMORANDUM

TO: Pinellas County Charter Review Commission
FROM: Kurt Spitzer
DATE: July 27, 2005
RE: August 1st Meeting Materials

The purpose of this Memorandum is to provide you with information concerning your meeting set for Monday, August 1, 2005. An Agenda for August 1st and Minutes of your meeting of July 18th are being provided to you under separate cover.

1. Non-Partisan Election of the Supervisor of Elections

Memoranda and other information from Susan Churuti and myself on this topic that were originally provided to you for your meeting of June 20th are attached.

2. Manager's Authority to Terminate Senior Staff

A draft amendment and ballot summary on this subject are attached.

3. Annexation Policy

There are three proposals concerning annexation. They were provided to you for your July 18th meeting. First is a Resolution of the CRC supporting the concept of charter authority over annexation by referendum. This would require authorization from the Legislature, which could be accomplished in one of two different manners - a Special Act effecting Pinellas County and a general law affecting all charter counties.

The second proposal is a revision to general law authorizing the creation of “preservation areas” which would not be available for annexation by adjacent municipalities.

The final proposal concerns the addition of definitions as relates to voluntary annexations. Should the CRC be interested in pursuing this policy, there are two different directions to take. One is to adopt a resolution urging the Board of County Commissioners to utilize the recommendations of the Annexation Task Force of the Pinellas Assembly process. The other proposal would directly embed definitions in the charter itself.

4. MGT Preliminary Findings

I expect to have the Preliminary Findings of MGT’s study of fire service by Friday morning and will distribute that document to you at that time.

Please contact me if you have any questions.

Attachments

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MEMORANDUM

TO: Pinellas County Charter Review Commission
FROM: Kurt Spitzer
DATE: June 15, 2005
RE: Non-Partisan Election of the Supervisor of Elections

This is to provide you with background information on the subject of electing the Supervisor of Elections on a non-partisan basis.

Two documents are attached for your review. One is a summary of some of the common policy arguments for and against making such changes. The other table identifies the practice in other charter counties in Florida.

Of the charters that have provided that one or more of the Constitutional Officers are elected on a "non-partisan" basis, most have done so without first abolishing the offices' "constitutional" status.

You should also know that there are minor differences in terms of the required filing fees for candidates for office and the disposition of the revenue when comparing partisan and non-partisan offices. Currently, in partisan elections at the county level, the filing fee is a total of six percent of the office's annual salary. An amount equal to one percentage point goes to the Election Commission's Trust Fund at the State of Florida. A total of five percentage points goes to the respective state political party's executive committee.

If the charter provided that the office was elected on a non-partisan basis, the total filing fee would be four percent of the Supervisor's annual salary. Of that amount, one percentage point would still go to the Election Commission's Trust Fund. However, the remaining three percentage points would go to the general revenue fund of the county.

Since a proposed amendment on this subject would likely need to be adopted as a Special Act by the Legislative Delegation before being presented to the voters, you may wish to make a final decision on this issue prior to your meeting of August 15th.

Please feel free to contact me if you have any questions.

attachments

Non-Partisan Election of the Supervisor of Elections
Policy Considerations

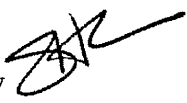
OPTIONS	COMMENTS
1. Retain the current (partisan) system	<ol style="list-style-type: none"> 1. Currently, the Supervisor of Elections and other county officers are elected on a partisan basis, with each (opposed) candidate competing in a primary election to be selected as the Democratic or Republican candidate for the general election. 2. Requiring candidates to run on the basis of party affiliation helps to identify the candidate's political traits and characteristics. 3. Most charter counties have retained the partisan system of elections for all county offices.
2. Elect the Supervisor of Elections on a non-partisan basis	<ol style="list-style-type: none"> 1. Electing the Supervisor on a non-partisan basis saves the cost of that part of a filing fee that is allocated to the party. 2. There is no "Republican" or "Democratic" way to "administer an election" – party affiliation is a more important and relevant indicator of future job performance for the State Legislature or Congress. 3. The chief elections officer of the county should be as far removed from party politics as is possible. 4. Electing the Supervisor on a non-partisan basis enables a broader cross-section of persons interested in becoming candidates to do so - whether the candidate has been active within the local party is less of a factor to becoming a viable candidate.

County Officers - Non-Partisan Elections

<i>County</i>	<i>Year Adopted</i>	<i>Population 2004</i>	<i>CO Election Method</i>	<i>Other</i>
Alachua	1987	236,174	no change	
Brevard	1994	521,422	no change	
Broward	1975	1,723,131	no change	rev. collection, finance moved to manager
Charlotte	1986	156,985	no change	residency requirement
Clay	1991	163,461	no change	recall; finance moved to manager
Columbia	2002	60,453	nonpartisan	(BCC nonpartisan)
Duval	1968	840,474	no change	
Hillsborough	1983	1,108,435	no change	
Lee	1996	521,253	no change	

<i>County</i>	<i>Year Adopted</i>	<i>Population 2004</i>	<i>CO Election Method</i>	<i>Other</i>
Leon	2002	263,896	supervisor non-partisan	(BCC non-partisan)
Miami-Dade	1957	2,379,818	N.A.	(commission non-partisan)
Orange	1986	1,013,937	nonpartisan	recall
Osceola	1992	225,816	no change	finance moved to manager
Palm Beach	1985	1,242,270	Appraiser, Supervisor and Sheriff nonpartisan	
Pinellas	1980	943,640	no change	
Polk	1998	528,389	nonpartisan	recall
Sarasota	1971	358,307	no change	residency
Seminole	1989	403,361	no change	
Volusia	1971	484,261	non-partisan	finance moved to manager; Elected Charter Officers

TO: Members, Pinellas County Charter Review Commission
The Honorable John Bryan
The Honorable James Coats
The Honorable Susan Latvala
The Honorable Jim Sebesta
Alan Bomstein
Karen Burns
Katie Cole
Ricardo Davis
Robert C. Decker
Roy Harrell
George Jirotko
Louis Kwall
Roger Wilson

FROM: Susan H. Churuti, County Attorney 

SUBJECT: Nonpartisan Election of Supervisor of Elections

DISTRIBUTION: The Honorable Ken Burke, Clerk of the Circuit Court
The Honorable Deborah Clark, Supervisor of Elections
The Honorable Diane Nelson, Tax Collector
The Honorable Jim Smith, Property Appraiser
Stephen M. Spratt, County Administrator

DATE: June 1, 2005

The purpose of this memorandum is to answer commonly asked questions about the procedure for making the Supervisor of Elections a nonpartisan office.

HOW CAN THE SUPERVISOR OF ELECTIONS OFFICE BE MADE NONPARTISAN?

There are two ways, by general law and by charter change. The first would make all Supervisors of Elections statewide nonpartisan. The second would require a local referendum.

WHAT ARE THE CURRENT CHARTER LIMITATIONS ON THE SUPERVISOR OF ELECTIONS?

There are three charter limitations in the Pinellas County Charter: Sections 2.06, 4.03, and 6.04.

The first two were adopted in 1980, with the original charter. The third was adopted in 1998, as recommended by the 1998 Charter Review Commission.

HOW HAVE OTHER COUNTIES TREATED THE ISSUE OF THE NONPARTISAN ELECTION OF CONSTITUTIONAL OFFICERS?

We have attached both the charter provisions relating to other counties and a digest of how other counties deal with this issue as Appendix A to this memorandum.

CAN THE CHARTER REVIEW COMMISSION MAKE THE SUPERVISOR OF ELECTIONS NONPARTISAN WITHOUT LEGISLATIVE ACTION?

Probably not. The legislature should act to remove the charter limitations previously discussed, at a minimum. A minority view is that the Charter Commission can put this item directly on the ballot. If this option is chosen, we would recommend a savings clause preserving the rest of the charter if this provision is ruled unconstitutional, such as that in the Polk county charter in Section 5.2.5. We would also recommend that you make a legislative finding that changing the office to nonpartisan does not effect the "status, duties, or responsibilities" of the office.

MUST THE CONSTITUTIONAL OFFICER STATUS OF THE SUPERVISOR OF ELECTIONS BE ABOLISHED IN ORDER TO MAKE THE OFFICE NONPARTISAN?

The conservative reading of the constitution and charter is that the constitutional status must be abolished; however, several counties have taken the action of making the Supervisor of Elections nonpartisan while preserving the constitutional status. Examples of language can be found in the Columbia, Leon, Polk, and Palm Beach county charters. Again, we would recommend a savings clause, and legislative finding.

CAN THE CHARTER REVIEW COMMISSION ABOLISH THE CONSTITUTIONALITY OF THE OFFICE OF THE SUPERVISOR OF ELECTIONS WITHOUT ABOLISHING THE CONSTITUTIONAL OFFICES OF THE OTHER FOUR CURRENT CONSTITUTIONAL OFFICERS?

Yes.

WHAT ARE THE OPTIONS FOR THE CHARTER COMMISSION ON MAKING THE SUPERVISOR OF ELECTIONS NONPARTISAN?

From least to most risk for being challenged and overturned, they are:

- 1) Do nothing;
- 2) Recommend a general statutory change to the legislature;
- 3) Ask the legislature to pass a special act charter change, removing the charter restrictions, abolishing the constitutional office, changing it to an elected charter office, and making it nonpartisan;
- 4) Ask the legislature to pass a special act charter change, remove the charter limitations, and make it nonpartisan; and
- 5) Bypass the legislature, put it directly on the ballot as a CRC-initiated charter change.

SHC:sme

Attachment

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Appendix "A"
CHARTER COUNTIES
Constitutional Officers and Non-Partisan Elections

1. **ALACHUA**

ARTICLE III. ELECTED COUNTY CONSTITUTIONAL OFFICES

Sec. 3.1. Elected county constitutional offices.

The offices of sheriff, property appraiser, tax collector, clerk of the circuit court and supervisor of elections shall remain as elected constitutional offices and the powers, duties and functions shall not be altered by this home rule charter. The constitutional officers shall perform their executive and administrative functions as specified by law.

The home rule charter, arts. I through IV, is set out as adopted by reference in Ord. No. 86-20, adopted on Sept. 9, 1986. The home rule charter became effective on January 1, 1987.

2. **BREVARD**

Sec. 4.1. Elected County officers.

The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections are expressly preserved as departments of the County Government under this Charter. All of the powers, duties and functions now or hereafter prescribed by the Constitution and general laws of Florida applicable to such officers in noncharter counties are preserved, except as provided by this Charter.

4.1.1. *Election and compensation.* The Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections shall be elected and compensated in the manner provided by law for such officers in noncharter counties.

4.1.2. *Vacancies.* Each County officer shall be subject to removal as prescribed by the State Constitution and general law for such officers in noncharter counties. Any other vacancy in a County office arising from the death, resignation, or removal of such official shall, if one year or less remains in the term of office, be filled by appointment of the Governor; provided, a vacancy created by recall shall be filled as provided in Section 5.2 of this Charter. Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election. The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and a minimum of two weeks between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law.

(As adopted by the County Commission on November 8, 1994. Amd. of 11-3-98)

3. BROWARD

Definitions section: *Constitutional Officers.* The County Sheriff, Property Appraiser, Supervisor of Elections, and Clerk of Court.

Sec. 3.06. Department of finance and administrative services; budget system.

A. There shall be a Department of Finance and Administrative Services that shall be responsible for the administration of all financial matters related to County government. The Office of Tax Collector is hereby abolished, and all functions and duties of that office are hereby transferred to the Department of Finance and Administrative Services.

B. Unless otherwise provided for in this Charter, all fiscal functions and duties now prescribed by the Constitution and the laws of the State of Florida for the office of Clerk of the Circuit Court and County Comptroller which relate to their duties as the custodian of all County funds, auditor and recordation of public documents shall be the responsibility of the Department of Finance and Administrative Services.

C. The Department of Finance and Administrative Services shall assist the appropriate County officer or officers in the preparation and execution of the County budget and capital program, and perform such other duties as may be prescribed by the County Code and the Administrative Code.

D. All County departments, offices, agencies and boards shall operate under a unified and uniform budget system. County officers and employees shall not be compensated through the collection of fees, unless required by the laws of the State of Florida. All fees collected by any County office, Agency, Board, or Committee shall be deposited in the County treasury.

(Charter adopted and approved by referendum on November 5, 1974, but dates of subsequent amendments not available.)

4. CHARLOTTE

ARTICLE III. ELECTED COUNTY CONSTITUTIONAL OFFICES

Sec. 3.1. Relationship to the home rule charter.

The offices of sheriff, property appraiser, tax collector, clerk of the circuit court and supervisor of elections shall remain as elected constitutional offices and shall not fall under the jurisdiction of this home rule charter, except as otherwise provided herein.

(Res. No. 98-094, § 3(1), 7-28-98)

Sec. 3.2. Residency requirements.

No person shall be qualified as a candidate for the office of sheriff, property appraiser, tax collector, clerk of the circuit court, or supervisor of elections unless such person has resided for at least six (6) months in Charlotte County immediately prior to qualification.

(Res. No. 98-094, § 3(1), 7-28-98)

Editor's note—Res. No. 98-094 was approved at an election held Nov. 3, 1998, with the amendments effective Jan. 1, 1999.

5. CLAY

ARTICLE III

ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1: Elected County Constitutional Offices.

⁶The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as elected constitutional offices and the powers, duties and functions shall not be altered by this Home Rule Charter, except that the powers, duties and functions of the Clerk of the Circuit Court shall be limited to those of clerk of the circuit court and recorder as described in Article VIII, §1(d), Constitution of the State of Florida. The Constitutional officers shall perform their executive and administrative functions as specified by law, except that the Clerk of the Circuit Court shall perform only the executive and administrative functions as specified by law with respect to those powers, duties and functions of the Clerk of the Circuit Court described in Article VIII, §1(d), Constitution of the State of Florida, as clerk of the circuit court and recorder.

History.—Amended effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.

⁶Note.—See Historical Notes for version in effect through September 30, 1999.

Section 3.2: Recall.

Each of the constitutional offices described in Section 3.1 of this Article shall be subject to recall in the same manner, under the same procedures, and for the same grounds as are provided by general law for the members of the Board of County Commissioners.

History.—Added effective January 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.

6. COLUMBIA

ARTICLE V

COUNTY OFFICERS

5.1 County constitutional officers

The constitutional offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections shall remain as elected constitutional officers, and their powers, duties and functions will not be altered by this Home Rule Charter. The constitutional officers shall perform their executive and administrative functions as specified by law.

5.2 Non-partisan election of county officers

5.2.1 Non-partisan offices. The County Commissioners and the County Constitutional Officers shall be elected on a non-partisan basis.

5.2.2 Non-partisan election procedures. If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

5.2.3 Qualification by petition. A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

5.2.4 Other provisions. In all respects not expressly provided in this charter, non-partisan elections shall be governed by the procedures set forth in general law for non-partisan school board elections, provided that nothing therein shall impair the constitutional rights of candidates to freedom of expression and association.

7. HILLSBOROUGH

Seems to be absolutely silent on Constitutionals

8. JACKSONVILLE-DUVAL

Section 5.05. Elected constitutional officers.

Councilmen shall be considered elected constitutional officers for purposes of s. 8, Article II of the State Constitution.

(Laws of Fla., Ch. 77-582; Ord. 84-1307-754, § 1; Laws of Fla., Ch. 92-341, § 1)

ARTICLE 8. SHERIFF

Sec. 8.01. Duties.

Sec. 8.02. Qualifications, election, terms, compensation.

Sec. 8.03. Vacancy.

Sec. 8.04. Two term limit.

Section 8.01. Duties.

The sheriff shall be responsible for the performance of duties imposed upon the sheriff of Duval County by the Constitution or by the general or special laws of Florida and shall be responsible for the management, operation, and control of law enforcement and traffic safety in the consolidated government. When deemed necessary, the sheriff may contract for traffic engineering services to be provided by an independent engineer or engineering firm, with the approval of the council. He shall administer the prison farm and jails, and shall be responsible for service of civil process.

(Laws of Fla., Ch. 80-512, § 1; Laws of Fla., Ch. 92-341, § 1)

Section 8.02. Qualifications, election, terms, compensation.

The sheriff shall be a qualified elector of and reside in Duval County, and shall have resided in and been a qualified elector of Duval County for at least 183 consecutive days immediately before the date on which he or she qualifies to run for the office of sheriff. The sheriff shall be elected by the qualified electors of Duval County for a period of 4 years and shall assume office on the first day of July following his or her election and serve until his or her successor is elected and qualified. The sheriff shall devote his or her entire time to the performance of the duties of his or her office and shall hold no other public office or public employment except that he or she may be a notary public or a member of the armed forces. The compensation of the sheriff shall be fixed by the city council.

(Laws of Fla., Ch. 69-1175; Ord. 79-821-516, § 3; Laws of Fla., Ch. 92-341, § 1)

Section 8.03. Vacancy.

If the sheriff should die, resign, or remove his residence from Duval County during his term of office, or be removed from office, the office of sheriff shall become vacant. A vacancy in the office of sheriff shall be filled in the following manner:

(a) An incumbent sheriff who resigns in order to seek a state or federal office in the general statewide election held in November immediately preceding the last year of his term, shall submit his resignation at least 10 days prior to the first day of the qualifying period for the office to which he seeks election and his resignation shall be effective no later than the date on which the general statewide election is held. A vacancy in the office of sheriff shall exist as of the effective date of the resignation. In the event a sheriff's resignation should be effective before the date of the general statewide election, then the vacancy in the office of sheriff shall be temporarily filled with an acting sheriff who shall be appointed by the Governor and who shall serve until a successor sheriff is qualified and elected. A candidate seeking election to fill the vacancy created by this resignation of an incumbent sheriff seeking other elected office shall qualify to run in a special election to be held as a part of and at the same time as the general statewide election. The time period during which such candidates may qualify to run in this special election shall commence at the same time as does the qualifying period for candidates seeking office in the general statewide election and shall terminate on noon of the seventh day following the date on which the qualifying period for the general statewide election ends. A sheriff elected to fill an unexpired term shall take office and assume and exercise all duties of office immediately as of the date of certification of the election returns by the supervisor of elections as provided by law.

(b) In the event that a vacancy in the office of sheriff occurs other than as provided in subsection (a), then such a vacancy shall be filled for the remainder of the unexpired term by election of a sheriff at a special election to be called pursuant to resolution of the city council and held on a date no sooner than 1 month and no later than 6 months after the vacancy occurs. This special election shall, if possible, be held in conjunction with any other election scheduled to be held within the county. A resignation by the sheriff shall be submitted to the supervisor of elections (with a copy to the secretary of the city council), shall specify the date on which it is effective, and shall be irrevocable. If a sheriff submits a resignation which is effective at a date later than that on which it is submitted, the city council may, by resolution, call a special election for the election of a successor, this special election to be held on a date not less than 1 month

after the date the resignation is submitted nor more than 6 months prior to the date the resignation is effective; and such special election shall, if possible, be held in conjunction with any other election scheduled to be held within the county. A vacancy in the office of sheriff occurring as contemplated in this subsection shall be temporarily filled in the same manner established in subsection (a). The acting sheriff shall exercise all the powers of the office of sheriff until a successor sheriff is qualified, elected, and assumes office. Should a special election not be held at the same time as any other election scheduled to be held within the county, then the special primary election for nominations of candidates of political parties for the office of sheriff to be voted upon in the special election shall be held at the times specified by the council in the resolution calling the special election, provided that at least 2 weeks shall intervene between the dates set for the first and second primary elections and at least 2 weeks shall intervene between the second special primary election and the special election. The time period during which candidates may qualify to run in the special primary elections and special elections shall be specified by the council in the resolution calling the special election, provided that at least 7 calendar days shall be fixed for the qualifying period and that the last date on which candidates may qualify shall occur not less than 3 weeks before the date of the first special primary election.

(Laws of Fla., Ch. 77-576; Ord. 84-1307-754, § 7; Laws of Fla., Ch. 85-432, § 1; Laws of Fla., Ch. 92-341, § 1)

Section 8.04. Two term limit.

No person elected and qualified for two consecutive full terms as Sheriff shall be eligible for election as Sheriff for the next succeeding term. The two-term limitation shall apply to any full term which began in 1992 or thereafter.

(Ord. 91-533-606, § 1 (Referendum of November 3, 1992))

Arts. IX (Supervisor of elections.), X (Property Appraiser), and XI (Tax Collector) Identical.

9. LEE

ARTICLE III. ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1. Elected County Constitutional Offices.

The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independent, elected constitutional officers and the powers, duties and functions shall not be altered by this Home Rule Charter. The Constitutional officers shall perform their executive and administrative functions as specified by general law.

(Charter of Lee County, Florida, as adopted by Ord. No. 96-01 on January 3, 1996, and by referendum on November 5, 1996)

10. LEON

Sec. 3.1. Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule

Charter, or any revisions or amendments hereto, except as provided in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law. *[n.b. 5.2 does not apply; this is a typo and should be 3.2]*

Sec. 3.2. Non-partisan elections.

(1) *Non-Partisan Offices.* The Supervisor of Elections shall be non-partisan.

(A) *Non-Partisan Election Procedures.* If three or more candidates, none of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

(B) *Qualification by Petition.* A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

Sec. 3.3. Clerk auditor.

(1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission as specified by law. The Clerk shall employ a Certified Internal Auditor, Certified Public Accountant, or such other person qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, which shall include at least five (5) years experience in professional accounting, auditing, governmental fiscal administration or related experience, unless the Clerk holds such qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

(2) *Audit Committee.* There shall be a five member Audit Committee of which two members shall be appointed by the County Commission and three by the Clerk. The Audit Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the Auditor. The Audit Committee members shall be residents of Leon County, none of whom may be an employee or officer of County government, and who have experience as a public accountant, internal auditor, or as a financial manager for a public, private or not for profit institution. The purpose of the Committee is to promote, maintain, and enhance the independence and objectivity of the internal audit function by ensuring broad audit coverage, adequate consideration of audit reports, and appropriate action on recommendations. Clerk shall provide for the organization and duties of the audit committee, including membership terms, voting procedures, officers, subcommittees, meeting schedules and staff support.

(The Leon County Home Rule Charter was originally enacted by Ord. No. 2002-07 adopted May 28, 2002; to be presented at special election of Nov. 5, 2002. Ord. No. 2002-16, adopted Sept. 10, 2002, repealed Ord. No. 2002-07 in its entirety. Subsequently, Ord. No. 2002-17, adopted Sept. 10, 2002, special election of Nov. 5, 2002; effective Nov. 12, 2002, enacted the Home Rule Charter to read as set out herein.)

11. MIAMI-DADE

SECTION 2.03. NONPARTISAN ELECTIONS.

All elections for Mayor and the other members of the Board shall be nonpartisan and no ballot shall show the party designation of any candidate. No candidate shall be required to pay any party assessment or state the party of which he is a member or the manner in which he voted or will vote in any election.

SECTION 8.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS.

A. On May 1, 1958, the following offices are hereby abolished and the powers and functions of such offices are hereby transferred to the County Manager who shall provide for the continuation of all the duties and functions of these offices required under the Constitution and general laws of this state: County Assessor of Taxes, County Tax Collector, County Surveyor, County Purchasing Agent, and County Supervisor of Registration.

B. The County Manager may delegate to suitable persons the powers and functions of such officers, provided however that until the term of office for which they were elected shall terminate the County Assessor of Taxes, the County Tax Collector, the County Supervisor of Registration, and the County Purchasing Agent shall each if he so desires remain in his position and receive the same salary as presently provided for by statute.

C. In the event that other elective officers are abolished by the Board, the Board shall provide that any person duly elected to such office shall if he so desires remain in the same or similar position and receive the same salary for the remainder of the term for which he was elected, and shall provide for the continuation of all duties and functions of these offices required under the Constitution and general laws.

D. On November 9, 1966, the Office of Sheriff is hereby abolished and the powers and functions of such office are hereby transferred to the County Manager, who shall provide for the continuation of all the duties and functions of this office required under the Constitution and general laws of this state. The County Manager may delegate to a suitable person or persons the powers and functions of such officer. Section 1.01A(19)(a) of this Charter is amended by deleting the word "Sheriff" and subsections (b) and (c) are repealed.

(Adopted November 6, 1956, and the Charter of Miami-Dade County, adopted May 21, 1957, as amended through March 9, 2004. Exact amendment dates not available.)

12. ORANGE

Sec. 605. Nonpartisan elections.

Elections for all Charter offices shall be nonpartisan. No candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates have qualified for any single office under the chartered government, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

(Created November 1992)

Sec. 703. County officers.

A. The charter offices of property appraiser, tax collector and sheriff formerly created by this section 703 are abolished. The functions and duties of each of these respective charter offices are transferred to the property appraiser, tax collector, and sheriff, as county officers under Article VIII, Section 1(d) of the Florida Constitution and each of these offices is hereby reestablished under Article VIII, Section 1(d) of the Constitution of the State of Florida.

This subsection A. shall take effect on January 8, 1997. The holders of the former charter offices of property appraiser, tax collector and sheriff as of the effective date shall be retained and shall constitute the initial county officers serving as property appraiser, tax collector and sheriff, as those offices are reestablished under Article VIII, Section 1(d) of the Constitution of the State of Florida.

B. Except as may be specifically set forth in the Charter, the county officers referenced under Article VIII, Section 1(d) of the Florida Constitution and Chapter 72-461, Laws of Florida, shall not be governed by the Charter but instead governed by the Constitution and laws of the State of Florida.

(Created 1992, effective January 1995; amended November 1996)

State law references: County constitutional officers, Fla. Const. art. VIII, § 1(d).

Note: See: *Charter Review Commission v. Scott, et al.*, 647 So.2d 835 (Fla 1994)

13. OSCEOLA

ARTICLE III. ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1. Elected County Constitutional Offices.

The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as elected constitutional offices and their powers, duties and functions shall be performed as specified by law. Provided, however, all powers and duties now or hereafter prescribed by the Constitution and laws of Florida for the office of the Clerk of the Circuit Court which relate to the functions of the ex officio clerk and accountant of the Board of County Commissioners, auditor, and custodian of all county funds are hereby transferred to and vested in the office of the County Manager.

(Ord. No. 91-12, § 1, 10-21-91)

14. PALM BEACH

Sec. 4.1. Elected constitutional officers.

The elected constitutional offices of sheriff, property appraiser, tax collector, clerk of the circuit court and supervisor of elections shall remain as presently constituted.

The board of county commissioners shall make available all services provided by its central service departments to the elected constitutional officers.

(a) Notwithstanding section 4.1., elections for the offices of property appraiser, sheriff and supervisor of elections shall be nonpartisan.

(b) No nonpartisan candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All candidates' names shall be placed on the ballot without reference to political party affiliation.

(c) In the event more than two (2) candidates for nonpartisan election have qualified for any single office, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

(Ord. No. 02-031, § 1, 7-23-02; Ord. No. 02-032, § 1, 7-23-02; Ord. No. 02-033, § 1, 7-23-02)

15. **PINELLAS**

Sec. 4.03. County officers.

This document [Charter] shall in no manner change the status, duties, or responsibilities of the [following] county officers of Pinellas County:

The clerk of the circuit court, property appraiser, tax collector, sheriff, and supervisor of elections.

Sec. 6.04. [Placement on ballot.]

Any other section of the Pinellas County Charter, chapter 80-590, Laws of Florida, notwithstanding, except for any proposed amendments affecting the status, duties, or responsibilities of the county officers referenced in §§ 2.06 and 4.03 of this Charter, charter amendments proposed under § 6.01 (proposed by Pinellas County Commission), § 6.02 (proposed by citizens' initiative), or § 6.03 (proposed by a Charter Review Commission) shall be placed directly on the ballot for approval or rejection by the voters and it shall not be a requirement that any such proposed amendments need to be referred to or approved by the Legislature prior to any such placement on the ballot. However, any charter amendment affecting any change in function, service, power, or regulatory authority of a county, municipality, or special district may be transferred to or performed by another county, municipality, or special district only after approval by vote of the electors of each transferor and approval by vote of the electors of each transferee. Such amendments proposed by the Board of County Commissioners must be approved by ordinance passed by a majority plus one member. The power to amend, revise, or repeal this Charter by citizens' initiative shall not include amendments relating to the county budget, debt obligations, capital improvement programs, salaries of county officers and employees, the levy or collection of taxes, or the rezoning of less than 5 percent of the total land area of the county.

(Laws of Fla. ch. 99-451, § 1)

16. **POLK**

ARTICLE 5

County Constitutional Officers

5.1 County constitutional officers

The constitutional offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections shall remain as elected constitutional officers, and their powers, duties and functions will not be altered by this Home Rule Charter. The constitutional officers shall perform their executive and administrative functions as specified by law.

5.2 Non-partisan election

5.2.1 Non-partisan offices. Commencing with the primary and general elections in the year 2004, the offices of Clerk of Circuit Court, Property Appraiser, Sheriff, Supervisor of Elections, and Tax Collector shall be nonpartisan.

5.2.2 Non-partisan election procedures. If three or more candidates, neither of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

5.2.3 Qualification by petition. A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

5.2.4 Other provisions. In all respects not expressly provided in this charter, non-partisan elections shall be governed by the procedures set forth in general law for non-partisan judicial elections; provided that nothing therein shall impair the constitutional rights of candidates to freedom of expression and association.

5.2.5 Preservation of constitutional offices. If any provision in this Section 5.2 shall impair the status of the office as a constitutional county office, this section shall have no force and effect.

(Charter adopted by Referendum Vote November 1998.)

17. SARASOTA

Section 2.4 Constitutional Officers.

There shall be elected by the electors of Sarasota County, for terms of four (4) years, a Sheriff, a Tax Collector, a Property Appraiser, a Supervisor of Elections, and a Clerk of the Circuit Court. These elected constitutional officers shall be responsible for all functions, duties, and requirements prescribed by the Florida Constitution, the general laws of the State of Florida and county ordinance.

(Amended 2-5-1985; Amended by ref. of 8-31-2004)

Section 6.5 Elections for County Office.

As identified herein, county office for which compensation is paid shall be defined to include membership on the Board of County Commissioners, Clerk of the Circuit Court, Property Appraiser, Tax Collector, Supervisor of Elections, and Sheriff. County office for which compensation is not paid is membership on the Charter Review Board. (Added 11-6-1990; Amended 11-5-1996)

18. SEMINOLE

ARTICLE III. ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1. Elected County Constitutional Offices.

The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as elected constitutional offices and the powers, duties and functions shall not be altered by this Home Rule Charter. The Constitutional officers shall perform their executive and administrative functions as specified by law.

Section 3.2. Seminole County School Board Elections.

After January 1, 1995, school board members of Seminole County shall be elected in partisan elections. Political party affiliation shall be used by any candidate during the campaign and shall be shown on the ballot.

(Adopted at General Election, 11-8-94)

19. VOLUSIA

Sec. 601.1. Functions and duties of departments receiving powers of former constitutional officers.

(1) *Department of finance:* The department of finance shall be responsible for the administration of all financial affairs of the charter government and such other duties provided by this charter.

(a) The office of tax collector is hereby abolished and all functions and duties of that office now prescribed by the Constitution and the laws of Florida are hereby transferred to the department of finance.

(b) All fiscal functions and duties now prescribed by the Constitution and laws of Florida for the office of the clerk of the circuit court which relate to the clerk's duties as ex officio to the board of county commissioners and auditor and custodian of all county funds are hereby transferred to the department of finance.

(2) *Department of public safety:* The department of public safety shall be responsible for the control, operation and administration of the duties of law enforcement and such other duties provided by this charter. All functions and duties now prescribed by the Constitution and laws of Florida for the office of sheriff are hereby transferred to the department of public safety, and the constitutional office shall thereupon be terminated, further providing that all functions relating to corrections and rehabilitation, the county prison farm, the Volusia County jail and all other similar facilities shall be transferred to the department of corrections.

(3) *Department of property appraisal:* The department of property appraisal shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of property appraiser (tax assessor) and all such functions and duties are hereby transferred to this department and the constitutional office shall thereupon be terminated. In addition, the department of property appraisal shall perform a continuing review of the assessment and exemption of all real and personal property within the county sufficient to permit the annual presentation of a tax equalization study and report for the board of tax adjustment (board of equalization). Further, the department of property appraisal shall perform such other functions as may be prescribed by this charter or the council.

(4) *Department of elections:* The department of elections shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of supervisor of elections and all such functions and duties are hereby transferred to this department and the constitutional office shall thereupon be terminated.

(5) *Department of central services:* The department of central services shall be responsible for control and operation of personnel, motor pool, clerical and records, purchasing, data processing and building maintenance divisions and such other duties as provided by this charter or the council. All functions and duties now prescribed by the Constitution and laws of Florida for the office of the clerk of the circuit court which related to the duties as ex-officio clerk to the board of county commissioners and keeper of the official minutes to the board of county commissioners, are hereby transferred to the department of central services. All functions and services of the department of central services shall be provided to all departments and operations of the charter government, and all departments and operations of the charter government shall be required to utilize the services provided by the department of central services unless exceptions are specifically approved in each case by the county manager.

(6) *Department of corrections:* There shall be a department of corrections which shall be responsible for the exercise of administrative supervision and control and have all functions, duties and responsibilities over matters relating to corrections and rehabilitation, the county prison farm, and the Volusia County jail. The department of corrections also shall be responsible for and shall exercise administrative supervision and control over all facilities, programs and services consistent with the laws of the State of Florida; and that the various department divisions shall be provided by county ordinance.

(Ch. 70-966, Laws of Florida (Sp. Acts), Art. VI, § 601.1; Res. No. 76-89, Amend. Nos. 3, 8, 9-16-76; Res. No. 96-121, Amend. No. 1, 6-20-96)

Sec. 904. Nonpartisan elections.

Elections for all offices shall be on a nonpartisan basis. No candidates shall be required to pay any party assessment or be required to state the party of which they are a member or the manner in which they voted or will vote in any election. All candidates names shall be placed on the ballot without reference to political party affiliation. School board members elected after January 1, 1995 shall be elected on a nonpartisan basis in the manner provided in section 901.1(3) of the charter.

(Ch. 70-967, Laws of Florida (Sp. Acts), § 2, which was approved at a referendum election held July 1, 1970; Res. No. 94-224, 9-15-94)

Editor's note: Resolution No. 94-224 proposed an amendment approved by the voters for nonpartisan election of school board members. The amendment was upheld by the district court of appeal in *County of Volusia v. Quinn*, 700 So.2d 474 (Fla. 5th DCA 1997), which reversed a circuit court decision that had declared the amendment invalid. During the pending of the litigation, the legislature adopted two special acts which ratified the referendum election on the amendment. Chapter 97-338, Laws of Florida (Sp. Acts) provides for nonpartisan election, but makes no reference to the charter. Chapter 97-353, Laws of Florida (Sp. Acts) is in a form a charter amendment, but deletes the sentence: "All candidates names shall be placed on the ballot without reference to party affiliation." This omission had not been approved by the voters in the referendum which the act ratified. Accordingly, the sentence is not deleted from the text here.

<u>COUNTY</u>	<u>TREATMENT OF CONSTITUTIONALS</u>	<u>ATTEMPT AT NONPARTISANSHIP</u>	<u>COMMENTS</u>
Alachua	"remain as elected constitutional officers"	None	"not be altered by H.R. charter"
Brevard	"expressly preserved as depts. of Co. Govt."	None	"elected in manner for nonch. Cos."
Broward	All but TC and Clerk's Board duties remain Constitutional; TC Office Abolished & under BCC; Clerk BCC duties under BCC	None	Clerk Duties split, no part of office abolished
Charlotte	"remain as elected constitutional officer," "not fall under jurisdiction of this h.r. charter"	None	6-mo. Residency requirement on Sheriff, PA, TC C. of CC & SOE
Clay	"remain as elected constitutional officers" "not altered by this H.R. charter" except C. of CC BCC duties	None	Says Constitutionals subject to same recall as BCC under general law
Columbia	"County Constitutional Officers shall be elected on a non-partisan basis"	All constitutionals non-partisan	Powers, duties and functions are not altered by the charter
Hillsborough	Charter Silent on Constitutionals	None	Silence

Jacksonville-Duval	Sheriff, PA, TC, SOE treated as ch. Officers	None	Term Limited; Not affirmatively abolished
Lee	"remain as independently elected constitutional officers and the powers, duties and functions . . . shall not be altered by this H.R. Charter"	None	
Leon	"remain as independently elected constitutional offices, and the status, powers, duties and functions . . . Shall not be altered by this H.R. Charter"	SOE non-partisan	SOE Placed on first primary ballot; Clerk audit fuction affected
Miami-Dade	TC and other ancient offices abolished; duties reassigned; apparent silence on others	Mayor & board members only	N.B. this is a Constitutional Charter;
Orange	"The charter offices of property appraiser, tax collector and sheriff formerly created by this section 703 are abolished. The functions and duties of each of these respec-	"Elections for all Charter offices shall be nonpartisan."	Adds "Except as may be specifically set forth in the Charter, the county officers referenced under Article VIII, Section 1(d) . . . Shall not

be governed by the Charter but instead governed by the Constitution and laws of the State of Florida."

tive charter offices are transferred to the property appraiser, tax collector, and sheriff, as county officers under Article VIII, Section 1(d) . . . And each of these offices is hereby reestablished under Article VII, Section 1(d)"

Clerk office not abolished.

None

"remain as elected constitutional offices and their powers, duties and functions shall be performed as specified by law." Except Clerk BCC functions transferred to Co.

None of offices abolished

"notwithstanding sec 4.1," PA, Sheriff & SOE nonpartisan

"shall remain as presently constituted." sec. 4.1

None of offices abolished

None

"charter shall in no manner change the status, duties, or responsibilities of the county officers of Pinellas"

"If any provision in this sec. 5.2 shall impair the status of the office as a constitutional county

All Constitutionals Non-partisan in sec. 5.2

"remain as elected constitutional officers, and their powers, duties, and functions will not be altered by this H.R. Charter."

Osceola

Palm Beach

Pinellas

Polk

office, this section shall have no force and effect."

N. B. reference to county ordinance

None

"These elected constitutional officers shall be responsible for all functions, duties, and requirements prescribed by the Fla. Consti., the gen. laws of Fla. And co. ordinance"

Sarasota

School Board members elected in partisan elections

"remain as elected constitutional officers and their powers, duties, and functions will not be altered by this H.R. Charter."

Seminole

"Elections for all offices shall be on a nonpartisan basis."
Applies only to BCC and Sch. Bd.

"Functions and duties of departments receiving powers of former constitutional officers."
TC abolished and duties assigned; Clerk fiscal duties transferred; Sheriff, Property Appraiser, and SOE constitutional offices terminated and duties assigned to Co.

Volusia

PINELLAS COUNTY CHARTER REVIEW COMMISSION

CHARTER AMENDMENT – COUNTY ADMINISTRATOR EMPLOYMENT POWERS

Article IV of the Pinellas County Charter as created by Chapter 80-590, Laws of Florida, as amended, is hereby amended to read:

ARTICLE IV.

ADMINISTRATION OF COUNTY GOVERNMENT

Sec. 4.01. County administrator.

(a) There shall be a county administrator selected and appointed by the affirmative vote of five (5) members of the board of county commissioners, who shall serve until such time as he shall be removed either by a vote for removal of four (4) members of the board of county commissioners voting for removal in two (2) separate meetings of the board, spaced not less than two (2) weeks apart, or by a vote of removal of five (5) members of the board of county commissioners.

(b) The county administrator shall be a full-time position. He shall serve at the pleasure of the board of county commissioners and shall be appointed solely on the basis of his executive and administrative qualifications.

(c) The county administrator shall have the following duties:

- (1) To administer and carry out the directives and policies issued to him by the board of county commissioners, acting as an official body, except that he shall not be directed or given authority to make appointments of members to any county boards, commissions or agencies.
- (2) Subject to the provisions of county merit or civil service plans, to select and employ personnel to fill all vacancies, positions or employment under his control and authority ~~after the board of county commissioners has authorized that such vacancies, positions or employment be filled.~~ Employment of persons in unclassified positions shall be subject to confirmation by the board of county commissioners.
- (3) Subject to the provisions and limitations of county civil service plans, to supervise all departments, department heads and employees of the board of county commissioners under his control and authority ~~and, in his discretion, to terminate for cause the employment of any employees of the board of county commissioners under his control and authority. Termination of persons in unclassified positions shall be subject to confirmation by the board of county commissioners.~~
- (4) After policy has been established by the board of county commissioners, to supervise all aspects of carrying into effect such policy to its completion. He shall thereupon report or order a full report to the board of county commissioners of the action taken upon such policy and directives of the board of county commissioners.
- (5) To perform such other duties as may be required of him by the board of county commissioners, acting as an official body, or by this Charter.

This amendment shall take effect upon approval by a majority vote of the electors of Pinellas County voting in a referendum election on November 7, 2006.

BALLOT TITLE: MAKE COUNTY ADMINISTRATOR'S EMPLOYMENT, SUPERVISION,
AND TERMINATION POWERS MORE CONSISTENT WITH COUNTY CIVIL SERVICE
PLAN

BALLOT QUESTION: Shall Article IV, secs. 4.01(c)(2) and 4.01(c)(3), be amended to make selection, employment, supervision, and termination of classified and exempt employees under his control and authority by the County Administrator, expressly subject to county civil service plans, and to delete the requirement[s] that the employment and termination of exempt employees under his control and authority by the County Administrator be subject to confirmation by the board of county commissioners.

_____ YES FOR APPROVAL

_____ NO FOR DISAPPROVAL

Alternative/Substitute Ballot Language for Article IV

BALLOT TITLE: GIVE COUNTY ADMINISTRATOR POWER TO EMPLOY AND TERMINATE HIS EXEMPT EMPLOYEES WITHOUT BOARD APPROVAL

BALLOT QUESTION: Shall Article IV, secs. 4.01(c)(2) and 4.01(c)(3), be amended to make selection, employment, supervision, and termination of classified and exempt employees under his control and authority by the County Administrator, expressly subject to county civil service plans, and to delete the requirement[s] that the employment and termination of exempt employees by the County Administrator be subject to confirmation by the board of county commissioners.

RESOLUTION NO. _____

WHEREAS, with the active cooperation and support of the municipalities, and pursuant to statutory authority, the Pinellas County Charter has been amended to provide for an exclusive method of voluntary annexation, by ordinance of the Board of County Commissioners and further provides for the delineation of exclusive annexation boundaries; and

WHEREAS, with the active cooperation and support of the municipalities, the Pinellas County Board of County Commissioners adopted an ordinance to implement that charter based annexation authority; and

WHEREAS, with over four years of experience in administration of the ordinance interjurisdictional disputes that have had an impact on economic development have been reduced. However, it has been recognized by the Board of County Commissioners and the Annexation Task Force of the Pinellas Assembly that the statutory limitation of charter authority to only voluntary annexation makes the exclusive annexation boundaries illusory and of little practical planning significance; and

WHEREAS, the first step in eliminating this barrier to real and practically functional annexation controls be to expand the scope of charter/special act/general law authority so that they were empowered to governed referendum annexation and contraction; and

WHEREAS, one way to accomplish this would be to, in the following manner, move and rewrite Section 171.044(5) Fla. Stat. of the general law to eliminate its applicability to only voluntary annexation:

1. Eliminate Section 171.044(5) Fla. Stat; and
2. move the above-referenced subsection (5) from the section governing voluntary annexation to the general preemption section with slight amendments to read as follows:

171.021Preemption; effect on special laws..

(5) The methods of annexation and contraction provided by this chapter shall be supplemental to any other procedure provided by general or special law, except that this chapter shall not apply to municipalities in counties with charters which provide for an exclusive method of municipal annexation to be implemented by ordinance of the Board of County Commissioners.

WHEREAS, a second way authorized by Article VIII Section 2(c) of the Florida Constitution would be to adopt a special act governing Pinellas County that provides for the same charter authority to read as follows:

The methods of annexation and contraction provided by Chapter 171 Florida Statutes for all forms of annexation and contraction shall be supplemental to any other procedure provided for in the Pinellas County

Charter and subsequently implemented by Pinellas County ordinance. In the event of a conflict between the County Ordinance adopted to implement this authority and the Provisions of Chapter 171 Florida Statutes, the Pinellas County Ordinance shall govern.

WHEREAS, the methods of annexation and contraction provided by this Chapter 171 Fla. Stat. shall be supplemental to any other procedure provided for in the Pinellas County Charter and implemented by Pinellas County Ordinance.

WHEREAS, the Pinellas County Charter Review Commission was convened pursuant to the Pinellas County Charter and has reviewed the countywide annexation issues and the report of the Annexation Task Force of the Pinellas Assembly and has determined that legislative action to support the continued expansion of home rule control of annexation issues is desirable.

NOW THEREFORE, BE IT RESOLVED that the Pinellas County Charter Review Commission agrees with the recommendations of the Annexation Task Force of the Pinellas Assembly and joins them in urging the legislative delegation to eliminate the remaining barrier to effective home rule over inherently local annexation issues by fully implementing County charter based annexation authority.

BE IT FURTHER RESOLVED that this Resolution be included in the final report to the citizens of the Pinellas County Charter Review Commission and that this Resolution be forwarded to the Pinellas County Legislative Delegation for its consideration in the 2006 legislative session.

This Resolution shall become effective upon its adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner _____, and upon roll call the vote was [unanimous] or:

AYES _____

NAYS _____

Absent and not Voting _____

1 CHAPTER 2006-____
2

3 Senate bill NO. _____
4

5 An act relating to Pinellas County; providing authority to the board of county
6 commissioners of Pinellas County to amend the Pinellas County charter to
7 provide for charter-based annexation and contraction procedures to which general
8 law will be supplemental; providing severability; providing an effective date
9

10 Be it Enacted by the Legislature of the State of Florida and pursuant to Article VIII, Section 2(c)
11 of the Florida Constitution:
12

13 Section 1. The methods of annexation and contraction provided by Chapter 171 Florida
14 Statutes for all forms of annexation and contraction shall be supplemental to any other procedure
15 provided for, now or in the future, in the Pinellas County Charter and subsequently implemented
16 by Pinellas County ordinance. In the event of a conflict between the County Ordinance adopted
17 to implement this authority and the Provisions of Chapter 171 Florida Statutes, the Pinellas
18 County Ordinance shall govern.
19

20 Section 2. If any provision of this act or its application to any person or circumstance is held
21 invalid, the invalidity does not affect other provisions or application, and to this end the
22 provisions of this act are declared severable.
23

24 Section 3. This act shall take effect upon becoming law.
25

26 Approved by the Governor _____
27 Filed in Office of Secretary of State _____
28

1 CHAPTER 2006-____
2

3 Senate bill NO. _____
4

5 An act relating to annexation regulation authority; repealing Section 171.044(4)
6 Florida Statutes; amending Section 171.021 Florida Statutes by adding a new
7 subsection 5 to provide that Chapter 171 Florida Statutes is supplemental to any
8 annexation provisions enacted by general and special law and to exempt charter-
9 based annexation methods from the provisions of Chapter 171, Florida Statutes;
10 providing severability; providing an effective date
11

12 Be it Enacted by the Legislature of the State of Florida:
13

14 Section 1. Section 171.044(4) Florida Statutes is hereby repealed and subsections (5)
15 and (6) are renumbered as subsections (4) and (5), respectively.
16

17 Section 2. Section 171.021 Florida Statutes is hereby amended to create a new subsection (5)
18 to read as follows:
19

20 171.021 Preemption; effect on special laws..
21

22 (5) The methods of annexation and contraction provided by this Chapter shall
23 be supplemental to any other procedure provided by general or special
24 law, except that this chapter shall not apply to municipalities in counties
25 with charters, which provide for an exclusive method of municipal
26 annexation to be implemented by ordinance of the Board of County
27 Commissioners.
28

29 Section 3. If any provision of this act or its application to any person or circumstance is held
30 invalid, the invalidity does not affect other provisions or application, and to this end the
31 provisions of this act are declared severable.
32

33 Section 4. This act shall take effect upon becoming law.
34

35 Approved by the Governor _____
36

37 Filed in Office of Secretary of State _____

DRAFT

A bill to be entitled

An Act relating to exemption from annexation; creating the "Community Preservation Act"; amending s. 125.01 F.S. to authorize counties to exempt portions of their unincorporated areas from annexation; amending s. 171.021 to add the preservation of communities to the purposes of The Municipal Annexation Act; amending s. 171.031 to add definition of "preserved community"; amending s. 171.0413 to add "non-exempt" to conditions for annexation.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Community Preservation Act."

Section 2. Section 125.01(1), Florida Statutes, is amended by adding a new subsection (dd) which reads:

125.01(1)(dd) Establish, and thereafter, alter or abolish, by ordinance, preserved community areas in the unincorporated portions of the county which either consist of identifiable communities which have expressed an interest in preserving their unincorporated character. These preserved community areas shall not be subject to annexation by any municipality under any procedure otherwise permitted by law.

Section 3. Section 171.021, Florida Statutes, is amended by adding a new subsection (5) which reads:

171.021(5) Ensure that communities which wish to preserve their unincorporated character and significant county facilities are protected from annexation.

Section 4. Section 171.031, Florida Statutes, is amended by adding a new subsection (14) which reads:

171.031(14) "Preserved Community" shall mean any portion of the unincorporated property of a county which has been designated by the county as a preserved community exempt from municipal annexation.

Section 5. Section 171.0413, Florida Statutes, is amended to read:

171.0413 Annexation procedures. – Any municipality may annex contiguous, compact, unincorporated territory, which has not been designated a "preserved community" as defined in this chapter, in the following manner...

RESOLUTION NO. _____

WHEREAS, with the active cooperation and support of the municipalities, and pursuant to statutory authority, the Pinellas County Charter has been amended to provide for an exclusive method of voluntary annexation, by ordinance of the Board of County Commissioners and further provides for the delineation of exclusive annexation boundaries; and

WHEREAS, with the active cooperation and support of the municipalities, the Pinellas County Board of County Commissioners adopted an ordinance to implement that charter based annexation authority; and

WHEREAS, with over four years of experience in administration of the ordinance, jurisdictional disputes that have had an impact on economic development have been reduced. However, it has been recognized by the Board of County Commissioners that the definitions for "contiguity" and "compact" provided in the county ordinance which mirror those in the Florida Statutes serve, on occasion, not only to perpetuate haphazard, ad hoc, and undisciplined decision-making but continue to foster inefficient municipal and county jurisdictional boundaries; and

WHEREAS, inefficient municipal and county jurisdictional boundaries result in waste in the delivery of services which translates into higher taxes; and

WHEREAS, efficient municipal and county jurisdictional boundaries results in efficiencies that should translate into lower taxes; and

WHEREAS, definitions have been proposed by the Board of County Commissioners but without counter proposals, were totally rejected by the Pinellas Planning Council; and

WHEREAS, after rejection by the Pinellas Planning Council the Board of County Commissioners on January 11, 2005 adopted those proposals as guidelines for review in their "Approved Policy Guidelines for Evaluating Proposed Voluntary Annexations." Those guidelines are attached as Exhibit "A" to this Resolution; and

WHEREAS, one of the bases for rejection of the definitions was that in certain unique circumstances and boundary patterns a proposed annexation would not meet the strict letter of the definitions but would not exacerbate the efficiencies in delivery of services and would be a logical and desirable extension of municipal boundaries; and

WHEREAS, not unlike all forms of regulation of land use, it is recognized that trying to govern the unlimited combination of patterns of possible municipal annexations with a single definition, strictly applied and without a basis for variance may lead to unduly burdensome results; and

WHEREAS, the definitions proposed by the Board of County Commissioners serve as a logical restriction, if moderated by a variance provision such as that attached as Exhibit "B," that will foster more orderly and efficient extensions of municipal boundaries through annexation; and

WHEREAS, the placement of such detailed and technical definitions in the Pinellas County Charter will make desirable modifications identified through experience difficult to accomplish and thus unduly frustrate annexation efforts.

WHEREAS, the Pinellas County Charter Review Commission was convened pursuant to the Pinellas County Charter and has reviewed the countywide annexation issues and the report of the Annexation Task Force of the Pinellas Assembly and putting technical annexation definitions in the Pinellas County Charter would make them difficult to amend through the lessons of experience.,

NOW THEREFORE, BE IT RESOLVED that the Pinellas County Charter Review Commission agrees with the recommendations of the Annexation Task Force of the Pinellas Assembly and joins them in urging the Board of County Commissioners to amend the County's ordinance to incorporate the definitions contained in the "Approved Policy Guidelines for Evaluating Proposed Voluntary Annexations" and to incorporate a variance provisions to mitigate unintended applications of the definitions in a manner that would create an undue hardship on continued municipal expansion.

BE IT FURTHER RESOLVED that this Resolution be included in the final report to the citizens of the Pinellas County Charter Review Commission and that this Resolution be forwarded to the Pinellas County Legislative Delegation for its consideration in the 2006 legislative session.

This Resolution shall become effective upon its adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner _____, and upon roll call the vote was [unanimous] or:

AYES _____

NAYS _____

Absent and not Voting _____

Exhibit "A"

APPROVED POLICY GUIDELINES FOR EVALUATING PROPOSED VOLUNTARY ANNEXATIONS (January 11, 2005)

Background:

In Pinellas County, voluntary annexations are subject to the provisions of County Ordinance No. 00-63 as a result of an amendment to the County Charter approved by the electorate in November 2000. Ordinance No. 00-63 requires that a proposed voluntary annexation meet the following basic requirements:

- (a) that the property proposed for annexation is located within the annexing municipality's planning area, is contiguous to the annexing municipality, is reasonably compact, and does not create an enclave; or
- (b) that the property is located within the annexing municipality's planning area, is located within and reduces an enclave existing on the effective date of the ordinance, and neither involves a property that is subject to an existing annexation agreement nor provides the basis for annexing an adjoining property that is subject to an annexation agreement.

Proposed voluntary annexations must also comply with the procedural requirements of County Ordinance No. 00-63.

The County ordinance allows for a limited review of proposed voluntary annexations by the Pinellas Planning Council, and provides an opportunity for an affected party (which includes Pinellas County) to petition the Council and the Countywide Planning Authority (CPA) to conduct a full review of a proposed voluntary annexation for consistency with the criteria and procedures of Ordinance No. 00-63. The criteria for determining whether a proposed annexation is consistent with the basic requirements for annexation rely upon terms that are not clearly defined. While "compact", "contiguous", and "enclave" are defined in the Ordinance using definitions from the Florida Statutes (the definition of "enclave" was simplified), these definitions leave considerable room for differences in interpretation. There were no clear and agreed upon guidelines established by the CPA for determining when these annexation requirements have been satisfied.

On January 11, 2005, the Pinellas County Board of County Commissioners, in their role as the Countywide Planning Authority, directed County staff to use the following policy guidelines that are quantified when reviewing proposed voluntary annexations for compliance with the annexation criteria in Ordinance No. 00-63. The present criteria will remain in the Ordinance and County staff will follow the

policy guidelines so that it is predictable what is an immediately acceptable annexation and what will be held out for further scrutiny.

Approved Voluntary Annexation Guidelines:

1. "Contiguous" means that a substantial part of a boundary of the area to be annexed is coterminus with a part of the boundary of the annexing municipality. This requirement would be satisfied when 50% or more of a boundary on a single side of the annexation area is coterminus with the boundary of the annexing municipality.
2. To ensure that annexation results in a municipal area that is reasonably compact, the following guidelines will be used:
 - At least 18% of the total perimeter of the proposed annexation area must be coterminus to the annexing municipality. All areas of the annexing municipality that are coterminus to the proposed annexation area are considered when determining whether this guideline has been met. This percentage is based on the typical dimensions of an R-3 residential lot (60' by 100'), which would meet the 18% requirement if its shortest side were adjacent to the municipal boundary.
 - Annexations are prohibited from creating pockets. A "pocket" would be created when an unincorporated area is enclosed along more than 82% of its perimeter by a single municipality. Pockets would include public ROW.
3. Experience has shown that, while individual annexations may satisfy the Ordinance requirements for contiguity and compactness, the cumulative impact of annexations over time in a specific area can result in municipal boundaries that are arguably inconsistent with these requirements. Therefore, the expansion of municipal boundaries through the aggregation of individual annexations in a specific area will be evaluated using the above guidelines as applied to the aggregated annexation area. While implementation of this requirement will require some judgment and must be reasonably applied, it will generally require that proposed annexations be evaluated in the context of the aggregated annexations back to where they have their smallest connection (as a percentage of the total perimeter of the aggregated annexation area) with the rest of the municipality. This cumulative application of the annexation criteria means that a municipality can continue to annex property in a certain area as long as the connection between the aggregated annexation area and the rest of the municipality constitutes at least 18% of the total perimeter of the aggregated annexation area. If the aggregated annexation area with or without the proposed annexations does not meet the voluntary annexation guidelines, then expansion of this area through further voluntary annexations could

not occur unless the proposed annexation would reduce the size of an existing pocket or increase the contiguity of the aggregated annexation area with the rest of the municipality.

4. The prohibition about creating "finger areas" should be adequately addressed through use of the voluntary annexation guidelines discussed above.

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Exhibit "B"

Variance In order to authorize any variance to the applications of these definitions the following criteria shall be considered by the Pinellas Planning Council, the Board of County Commissioners and the annexing local government's governing body:

- (1) Special conditions. That special conditions and circumstances exist which are peculiar to the land including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) No special privilege. That granting the variance requested will not confer on the applicant any special privilege that is denied by the definitions to other similar lands.
- (3) Unnecessary hardship. That literal interpretation of the definitions would deprive the applicant of rights commonly enjoyed by other similarly situated properties.
- (4) Purpose and intent compliance. That the grant of the variance will be in harmony with the general intent, purpose, and spirit of allowing annexation while at the same time preserving and enhancing the efficient delivery of service.
- (5) Detriment to public welfare. That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (6) Reduction of Problems That such variance would reduce the size of an existing pocket or increase the contiguity of the aggregated annexation area with the rest of the municipality.

ARTICLE II.

POWERS AND DUTIES OF THE COUNTY

Sec. 2.04. Special powers of the county.

(t) All powers necessary to establish by ordinance the exclusive method and criteria for voluntary municipal annexation, including the delineation of areas eligible for annexation, to the extent provided by general law. The ordinance shall require that properties proposed for annexation be contiguous and that the resulting municipal area is compact. The following definitions shall apply:

1. An area proposed for annexation is "Contiguous" to a municipal boundary if 50% or more of a boundary on a single side of the area to be annexed is coterminus with a part of the boundary of the annexing municipality.
2. An area proposed for annexation maintains a municipal area that is compact if:
 - a. At least 18% of the total perimeter of the proposed annexation area is coterminus to the annexing municipality. All areas of the annexing municipality that are coterminus to the proposed annexation area are considered when determining whether this guideline has been met.
 - b. A proposed annexation does not create a pocket by enclosing an unincorporated area, including public rights-of-way, along more than 82% of its perimeter.
 - c. The length of contiguity of an aggregation of prior annexations, together with a proposed annexation back to where the area has its smallest connection to the municipal boundary constitutes at least 18% of the total perimeter of the aggregated annexation area together with the proposed annexation.

Variance In order to authorize any variance to the applications of these definitions the following criteria shall be considered by the Pinellas Planning Council, the Board of County Commissioners and the annexing local government's governing body:

- (1) Special conditions. That special conditions and circumstances exist which are peculiar to the land including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) No special privilege. That granting the variance requested will not confer on the applicant any special privilege that is denied by the definitions to other similar lands.
- (3) Unnecessary hardship. That literal interpretation of the definitions would deprive the applicant of rights commonly enjoyed by other similarly situated properties.

- (4) Purpose and intent compliance. That the grant of the variance will be in harmony with the general intent, purpose, and spirit of allowing annexation while at the same time preserving and enhancing the efficient delivery of service.
- (5) Detriment to public welfare. That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (6) Reduction of Problems That such variance would reduce the size of an existing pocket or increase the contiguity of the aggregated annexation area with the rest of the municipality.

BALLOT TITLE: PROVIDE DEFINITIONS FOR CONTIGUOUS AND COMPACT FOR THE REGULATION OF ANNEXATION INCLUDING A VARIANCE PROVISION

BALLOT QUESTION: Shall Article II, Section 2.04(t), be amended to add definitions for the terms “compact” and “contiguous” and standards for approving variances from those definitions all to be used in determining a property’s eligibility for annexation?

_____ YES FOR APPROVAL

_____ NO FOR DISAPPROVAL