

MEMORANDUM

TO: Pinellas County Charter Review Commission

FROM: Kurt Spitzer

DATE: June 17, 2005

RE: Other Policy Options for Consideration

Attached for your review is a document describing some of the other policy areas that the CRC could address. Should the CRC you wish to discuss any of these issues further, I would be happy to provide additional information to you. Please advise.

Pinellas County Charter Review Commission
Basic Charter Subjects and Options

Legislative Branch

1. Districting Method

The BCC currently uses a system of four commissioners elected from single-member districts and three elected by the voters countywide but living in specific residence areas. The charter may provide for a wide variety of alternatives. The number of commissioners may also be changed.

There are numerous policy arguments for and against the current system and each alternative. Generally, an at-large system of electing commissioners is believed to be beneficial since the county commission must confront many issues and provide many services on a countywide basis, and electing persons countywide helps to insure a more global view on the BCC. Single-member districts are sometimes favored because it is believed that the person elected from a district is more reflective of and responsive to the people from that district.

2. Partisan vs. Nonpartisan

The BCC is currently elected on a partisan basis. Several charters provide that the BCC is elected on a non-partisan basis, with or without the identification of party affiliation.

3. Length of Term, Limits on Term

This topic concerns whether or not to limit the number of times an office-holder may seek to be re-elected. This issue was the subject of a lengthy dispute in court. The charter may provide that term length is different than the current four-year period of time. There are numerous policy arguments both for and against term limits.

4. Salary

The salaries of most county commissioners in Florida (charter and non-charter) are set as provided in general law. The salary provisions of Florida statutes provide for a population driven formula when determining the salary of county commissioners and other elected county officers. The Pinellas charter specifically follows the state system, although it may provide otherwise.

Executive Branch

1. 2004 Amendments

Four amendments were proposed to the charter in 2004 concerning the Office of the County Administrator. Three passed.

1. Prohibition Against Interference by Commissioners with Administrative Staff – The amendment clarified that there is a “separation of powers” between the legislative and executive branches of government, and provided for a “Non-Interference” clause in the charter that prohibits County Commissioners from directing the activities of staff under the control of the County Administrator, except through instructions given to the Administrator. Note that the amendment did not specifically address what violations of the non-interference policy constituted, as is done in most charters.

2. Designation of the Administrator as the County Budget Officer – This amendment codified current practice in Pinellas County and specifically designated the Administrator as the county’s Budget Officer.

3. Clarification of the Procedure to Terminate the Administrator – The amendment clarified the language existing in the charter concerning the procedure used to terminate the Administrator.

4. Ability of the Administrator to Terminate Unclassified Employees – This amendment failed at the ballot and concerned the authority of the Administrator to unilaterally terminate senior (exempt) staff. The charter currently provides that the County Administrator may terminate any employee of the Board of County Commissioners for cause, subject to the provisions of the County Civil Service plan. The termination of persons in unclassified (exempt) positions is subject to confirmation by the Board of County Commissioners and the proposed amendment deleted that requirement.

Almost all charters allow the manager to employ and terminate exempt staff without seeking the approval of the County Commission. Doing so provides a new manager or County Administrator with the flexibility needed to build his or her team of senior staff.

The CRC may wish to revisit amendment #4, perhaps considering changes to the way in which the ballot title or summary could be re-worded.

2. County Chair / Elected Executive

Generally there are two alternatives to be used to replace the County Administrator form of government with an elected official as head of the executive branch. The County Chairman is the model that is used by Orange County and several cities in Florida. Here the head of the executive branch is a “chair” or “mayor” who is directly selected by the electors of the county.

The chairman serves as both the ceremonial and the managerial head of the government. The charter provides for a professional administrator who is employed by the chairman, subject to the confirmation of the County Commission. In addition to his/her administrative duties, the mayor chairs each meeting of the County Commission.

The Elected Executive model is used in Jacksonville/Duval, Miami-Dade County and the City of Tampa. Here the voters directly elect the head of the executive branch, which is typically called the “mayor.” However, this model is more similar to that of the Governor and Legislature in that there is complete and total separation between the executive and legislative branches. The legislative branch (council) administers their own meetings and selects their own chair or “president”. Other than to give the annual “state of the county” address and present a budget, the Mayor rarely attends a county council meeting. The form of government may or may not provide for a professional manager.

Both forms clearly identify who is “in charge” in the county. They provide the Mayor with a greater ability to marshal political constituencies around issues. They place the County Chair on par with the municipal mayors and constitutional officers. Both forms, however, de-emphasize implementation of legislative policy based on management skills, and they de-emphasize the role of the professional administrator employed on the basis of training, education and management capability.

3. Directly Elected (“Weak”) Commission Chair

The other members of the Board currently elect the Chair of the County Commission for a term of one year. The charter could be amended to provide that one of the three at-large seats would serve as the Commission Chair for a term of four years. The position would still only have largely ceremonial powers but there would be consistency in who occupied the seat for a full four-year term. The professional manager’s role would remain unchanged.

Constitutional Officers

Pinellas, like most counties in Florida, has retained the full complement of independently elected constitutional officers. The question for the charter review commission is whether it wants to keep some or all of the constitutional officers as independent offices or should they be changed in some fashion? Numerous policy questions exist. Remember that any recommendations in this area will likely need to be adopted as a special act by the legislative delegation before being placed in front of the Pinellas electorate for their consideration.

Citizen Initiative

The CRC, the Legislative Delegation and the BCC (by a vote of not less than a majority plus one of its membership) may propose amendments to the county charter. The Pinellas charter also

provides that the electors of the County have the right to initiate charter amendments by obtaining petitions signed by at least 10 percent of the qualified electors as of the last general election. There are requirements in the charter to ensure that the necessary signatures are not obtained from a single, narrow geographic area of the county. There is a “single subject rule” concerning the subject of the petition.

In addition to the other restrictions in the charter, charter amendments proposed by petition may not concern matters relating to the county budget, debt, capital improvement programs, salaries, the levy or collection of taxes, or the rezoning of less than five percent of the total land area of the county. Note that many of these prohibited subject areas are already effectively pre-empted by statute or constitutional provision.

There are several policy questions, including:

- Should the 10% requirement be increased, lowered or left alone? Should the requirements concerning distribution of signatures be adjusted?
- Should the prohibited subjects be expanded, narrowed or left unchanged?
- Should a parallel process be considered concerning the adoption of ordinances by petition? If so, what policy framework should be considered?

Charter Review Commission

17 of the 19 charter counties provide for a regular review of the charter and county government by a body of laypeople. Two of the 17 provide that the review entity is advisory to the county commission. The other 15 are independent of the BCC and their recommendations may be placed directly on the ballot. Pinellas is independent of the BCC, although you are aware of some of the other restrictions limiting the CRC’s work. Most charters provide that some or all elected officials may not serve on the CRC. Pinellas is the only charter that specifically requires certain officials to serve.

Generally, the questions for the charter review commission are:

- Frequency with which the CRC is constituted – On a normal cycle, the Pinellas CRC is established every six years. Policies in other charters range from every four years, to every eight or ten years. Policies that provide for a CRC that is created every eight years can facilitate the timing of recommendations to be placed on a Presidential ballot, where voter turnout is usually higher. Note that since the section of the charter pertaining to the next “regular” CRC was not amended in 2004, it will be appointed in approximately four years from now.

- Duration of the CRC – Most CRC’s are given over a year to complete their work. Also, they remain constituted until the general election so that they may be involved in a public education effort. The Pinellas CRC is given six months to complete its work and ceases to exist in July. However, note that the reconstituted CRC is allowed to operate through November of 2006.
- Appointment Process – The Pinellas BCC appoints all members of the CRC, although some must come from various categories of elected officials. Most charters provide that the BCC appoints all CRC members, although there are a few that specifically provide for nominations from certain constituencies in the county.
- Composition - Should the composition of the charter review commission be left as is or altered? The 1998 CRC voted to reduce the number of elected officials serving on the CRC by two – one county commissioner and one elected city official. You could consider further reductions, increase the number of elected officials, etc.

Process Amendments

The CRC has discussed the unique features of the Pinellas County Charter on several occasions. Of the 19 county charters in Florida, Pinellas is the only “limited” home rule charter. Some (but not all) of the procedural difficulties that the CRC has confronted when considering proposed amendments are due to the limited nature of the charter itself.

There are two procedural remedies to address this situation. If adopted, they would not result in any immediate changes in governance or structure in Pinellas County. They would, however, change the way in which amendments are presented to or adopted by the electorate in the future.

- Remove Legislative Oversight on Matters Concerning the Constitutional Officers – Most charters do not affect the county constitutional officers. However, Pinellas is the only charter that requires any proposed amendments doing so must to be first approved as a special act before being placed in front of the voters for their consideration. If this section was removed, it would still be necessary for the electorate of the county to approve any future amendments relating to the constitutional officers but the amendments would not have to go through the legislative process first.
- Remove the Dual Vote Requirement to Set Countywide Policy – The Florida Constitution requires a single countywide vote when a charter amendment authorizes the BCC to set a specific policy countywide. In practice, charters address specific policy areas (e.g. water quality protection) and then permit municipalities to have more stringent standards. Such amendments recognize that

programs in one area of a county effect people and programs in another area, and also the need for a single jurisdiction to set policy on a regional basis in certain program areas. The charter already grants the ability to adopt countywide policy to the BCC in a number of areas. Removing the “dual vote” requirement in the charter would bring the Pinellas Charter into consistency with the other 18 charters and the Florida Constitution.

Note that many issues concerning city-county relations are inextricably tied to the question of the method by which solutions to these problems may be presented and adopted by the voters.

Repeal of Charter

Like most (if not all) other charters, the Pinellas Charter has no mechanism by which it may be repealed. A citizen initiative or amendment from the CRC might likely be challenged in court as being unauthorized. The charter could be amended to provide that the voters could consider a question on repeal or repeal/reconstitute the charter in the future.

Countywide “Forum” or “Council”

There has been discussion on creating a more formal mechanism by which representatives of cities, the county and perhaps other parties would meet on a regular basis for the purpose of discussing common problems. A forum or council of governments could be created by practice, interlocal agreement or charter amendment. Questions on the entity’s purpose, membership, role, scope and funding would need to be addressed.