

Pinellas Park, Florida, June 19, 2006*

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-950, Laws of Florida) was held in the Tampa Bay Regional Planning Council Conference Room, Suite 100, 4000 Gateway Centre Boulevard, Pinellas Park at 5:31 P.M. on this date with the following members in attendance:

Alan Bomstein, Chairman
Ricardo Davis, Vice-Chairman
Susan Latvala, County Commissioner
James F. Coats, Sheriff (via telephone conference call)
John Bryan, City of St. Petersburg Councilmember
Karen Burns
Robert C. Decker
Louis Kwall (via telephone conference call)
Sallie Parks
Roger Wilson

Late Arrival:

Katie Cole
George Jirotko, Circuit Court Judge

Absent:

Jim Sebesta, State Senator

Also Present:

Susan H. Churuti, County Attorney
James L. Bennett, Chief Assistant County Attorney
Kurt Spitzer, KS&A
Other interested individuals
Cathy Fickley, Deputy Clerk

AGENDA

1. Welcome
2. Approval of Minutes
3. Consideration of the Proposals of the CRC and Any Amendment Thereto

* Minutes for the meeting of June 19, 2006 as prepared by the Clerk's Office but not formally approved by the Charter Review Commission.

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- a. A#1 – Abolishment of Special Dependent Districts
 - b. A#2 – Administrator Employment Powers
 - c. A#3 – Future Charter Review Commissions
 - d. A#4 – Deletion of the Requirements for the Dual Vote
 - e. A#5 – Annexation (Miscellaneous Controls)
 - f. A#6 – Annexation (Limitations on Incentives)
 - g. A#7 – Annexation (Consent Requirements)
 - h. Special Act – Future Authorization to Repeal Charter
4. Discussion of Final Report of the CRC
 5. Other Business
 6. Adjourn

WELCOME

Chairman Bomstein called the meeting to order, introduced the members of the CRC, noted the presence of a quorum; and related that Sheriff Coats and Mr. Kwall are attending the meeting via telephone conference call.

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At this time, 5:31 P.M., Mr. Kwall left the meeting.

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MINUTES OF THE MEETING OF JUNE 8, 2006 – APPROVED

Chairman Bomstein presented the minutes of the meeting of June 8, 2006, and after receiving no response to a request for corrections, declared the minutes approved as submitted.

CONSIDERATION OF CRC PROPOSALS AND ANY AMENDMENTS THERETO

Chairman Bomstein provided a brief overview of the public hearing process; noted that the members had received approximately 33 email messages; related that the public would only be permitted to speak with regard to the proposed amendment language to the proposed charter amendments at this meeting; and that the rules established by the members require a majority plus one, or eight votes, to approve any action.

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At this time, 5:34 P.M. and 5:36 P.M., Ms. Cole and Judge Jirotko entered the meeting, respectively.

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Amendment No. 1 – Abolishment of Special Dependent Districts

Attorney Churuti related that abolishment of the dependent special districts has been accomplished; that the special acts have been signed into law by the governor; that the charter amendment adds special dependent districts as special powers of the county; and that no structural changes have been made with the exception that in the future, the laws can be amended on a local level.

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At this time, 5:37 P.M., Mr. Kwall joined the meeting via telephone conference call.

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Mr. Spitzer noted that there are no amendments to the proposed charter amendment; whereupon, Commissioner Latvala moved, seconded by Ms. Parks, that Amendment No. 1, Abolishment of Special Dependent Districts, be approved to go forward as part of the final report. Upon call for the vote, the motion carried unanimously.

Amendment No. 2 – County Administrator Employment Powers

Mr. Spitzer indicated that the proposed charter revision would correct gender references; and that it would codify the current practice as it relates to the County Administrator's ability to terminate senior staff without seeking the approval of the Board of County Commissioners (BCC); whereupon, he noted that there are no amendments to the proposed charter amendment.

Commissioner Latvala moved, seconded by Councilmember Bryan, that Amendment No. 2 be approved.

Mr. Kwall indicated that he has previously stated his opposition to the proposed amendment; and clarified that it is not a reflection on the current County Administrator. Upon roll call, the vote was:

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Ayes: Burns, Bryan, Jirotko, Latvala, Parks, Decker, Wilson, Cole, Bomstein and Coats.

Nays: Davis and Kwall.

Absent and Not Voting: Sebesta.

Chairman Bomstein noted that Amendment No. 2, County Administrator Employment Powers, has been approved to go forward as part of the final report.

Amendment No. 3 – Future Charter Review Commissions

Mr. Spitzer provided an overview of the proposed charter amendment as previously written; and related that an eight-year timeline had been recommended in order to fall in conjunction with the November presidential ballot when voter turnout may be higher; that the CRC be authorized to retain and employ independent staff; that the CRC be authorized to pay expenses based upon rules that it adopts; that future CRCs be required to hold at least two hearings prior to final transmittal of any recommendation to the ballot; and that the CRC remain in existence through the November General Election in order to supervise or conduct public informational campaigns; whereupon, he noted that the original draft deletes the requirement that four elected officials of four different categories serve on future CRCs, and prohibits elected officials and staff of local government from serving on future CRCs.

Mr. Spitzer related that Councilmember Bryan has submitted an amendment identical to the proposed language, with the exception that it does not alter the current requirement that four elected officials serve on the CRC; whereupon, he noted and corrected two technical errors in the proposed amendment, with the concurrence of Councilmember Bryan.

Thereupon, Councilmember Bryan commented that elected officials provide invaluable feedback to the commission members; and pointed out that during the public hearings, 17 people were in favor of maintaining elected officials on the charter panel; whereupon, in rebuttal, Commissioner Latvala related that she is unaware of any elected officials who serve on city charter review panels; and that the meetings have turned into forums for elected officials, and as a result, very few citizens have attended or provided input. During discussion and in response to query by Mr. Decker, Mr. Spitzer related that Pinellas is the only charter county that requires four elected officials to serve on the CRC.

No one appeared in response to the Chairman's call for persons wishing to be heard; whereupon, Councilmember Bryan moved, seconded by Mr. Decker, that the amendment to the proposed Charter amendment be approved. Chairman Bomstein called the question, and noted that a super majority is not required for an amendment to the proposed charter amendment. Upon roll call, the vote was:

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Ayes: Bryan and Decker.

Nays: Burns, Davis, Jirotko, Latvala, Parks, Wilson, Cole, Coats, Kwall and Bomstein.

Absent and Not Voting: Sebesta.

Chairman Bomstein noted that the motion failed, 2 to 10; whereupon, Commissioner Latvala moved, seconded by Mr. Davis, that Amendment No. 3 move forward with the previously drafted language.

Discussion ensued during which Ms. Cole suggested that the BCC be given parameters within which to appoint suitable representatives from the entire county; and Mr. Bomstein commented that a recommendation could be incorporated into the final report to the BCC requesting that they address the diversity of future CRCs during the appointment process; whereupon, Councilmember Bryan pointed out that the amendment language cannot be adjusted; and that if an amendment to the proposed charter amendment has not been submitted, the language remains as previously adopted.

Thereupon, at the request of the Chairman, Commissioner Latvala referred to the composition of the current CRC and indicated that the majority of members live in cities; that only four members are from the unincorporated area; and that future county commissions would continue to appoint charter panels in this manner as the BCC consists of single member districts and at-large members; whereupon, in response to query by Judge Jirotko pertaining to the rationale for eliminating all elected officials, Commissioner Latvala responded that one reason is due to poor attendance by some elected members; reiterated that other county charters are not comprised of elected officials; and added that if the expertise of constitutional officers is required, they would be invited to make presentations to the charter panel.

During further discussion pertaining to a technical question, Attorney Churuti reported that a new administrative rule has been promulgated to harmonize the ballot questions statewide; and Chairman Bomstein commented that he will be requesting that the members empower him to act on behalf of the CRC in conjunction with the County Attorney's Office with regard to the resolution of technical, not substantive, issues.

Thereupon, Mr. Wilson moved, seconded by Mr. Decker, that Amendment No. 3 be approved; whereupon, Chairman Bomstein called the question. Upon roll call, the vote was:

Ayes: Burns, Davis, Jirotko, Latvala, Parks, Decker, Wilson, Cole, Coats, Kwall and Bomstein.

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Nays: Bryan.

Absent and Not Voting: Sebesta.

Chairman Bomstein noted that Amendment No. 3, Future Charter Review Commissions, has been approved to go forward as part of the final report.

Amendment No. 4 – Deletion of the Requirements for the Dual Vote

Chairman Bomstein reported that the County Attorney has suggested a change to the ballot question language; whereupon, he read the previous language as follows, “Shall Section 604 of the Charter be revised to delete the requirement of the dual vote retaining a single vote requirement for any amendment affecting a transfer of city, county or special district service or regulatory authority so that the Charter procedures will follow the provisions of the Florida Constitution?”

Attorney Churuti acknowledged that the new language is less understandable, but that it may be easier to defend should there be challenges; and stated that the members will have to decide whether to have clarity for the voters or specificity for the court system; whereupon, she described the process of a past challenge to a proposed charter amendment.

Discussion ensued regarding the clarity of the language, and upon query by Ms. Parks, Attorney Churuti provided a summary of what the dual vote requires; whereupon, Ms. Parks suggested that language be included that states that services provided by the cities will remain protected by the Florida Constitution.

Judge Jirotko and Ms. Burns suggested that a vote be taken to ascertain how many members would be in support of the proposed language change; whereupon, Mr. Decker moved, seconded by Ms. Burns, that the amended language be approved. Following discussion, Ms. Burns withdrew her second; whereupon, Chairman Bomstein stated that the motion is defeated for lack of a second.

Discussion continued during which Attorney Churuti noted that new Supreme Court case law pertaining to the dual vote issue has recently been distributed to the members; and suggested that the Chairman be delegated the ability to work with the County Attorney’s Office in its effort to clarify the amendment language prior to submission of the final report by July 1; whereupon, Commission Latvala moved, seconded by Mr. Wilson, that Amendment No. 4 be approved; and that the Chairman be authorized to work with the County Attorney’s Office in clarifying the amendment language.

During additional discussion, Councilmember Bryan expressed concern with regard to the rewriting of the amendment; and Chairman Bomstein stated that he would email

any changes to the members, or a meeting could be scheduled to vote on the issue prior to July 1. Deliberations continued with regard to the delegation of authority to the Chairman; whereupon, following concerns expressed by several members, Attorney Churuti suggested that staff attempt to craft language to enable the members the opportunity to vote at this time. In response to query by Councilmember Bryan, Chairman Bomstein indicated that the motion on the table is to approve the proposed amendment and delegate authority to the Chairman; whereupon, Mr. Bryan discussed the following issues concerning the proposed amendment:

- A total of 45 citizens spoke in opposition to the proposed dual vote amendment during the public hearing process.
- Approximately 17 cities have enacted resolutions in opposition to placing the amendment on the ballot.
- Many cities have hired attorneys for consultation and possible legal challenges.
- Passage of the amendment may affect city/county relations.

Following a suggestion by Sheriff Coats to provide clarification of the language, Attorney Churuti distributed proposed amended language for review, a copy of which has been filed and made a part of the record. Discussion continued regarding the proposed language and the dual vote issue during which Chairman Bomstein expressed concern with the language; whereupon, Attorney Churuti suggested that the members revert to the original language, and additional discussion ensued.

Noting the concern of several members, Commissioner Latvala withdrew the portion of her motion delegating authority to the Chairman, and the seconder concurred. Chairman Bomstein clarified that the motion is to approve Amendment No. 4 as originally submitted, and not as amended by the County Attorney; whereupon, discussion continued concerning the most recent amendment language.

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At the direction of Chairman Bomstein, there being no objection, the meeting was recessed at 6:46 P.M. and reconvened at 7:02 P.M. in order to enable the County Attorney's Office to continue to review the wording of the proposed amendment.

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Referring to a document containing revised amendment language that had just been distributed, a copy of which has been filed and made a part of the record, Attorney Churuti noted that the new ballot title reads, "Amends Charter to Delete Dual Vote Except When Required by the Florida Constitution"; and stated that the new ballot question reads, "Shall Section 6.04 of the Charter be amended to delete the requirement of a dual vote and retaining a single vote requirement, for any Charter amendment effecting a transfer of county, city, or special district service or regulatory authority, so that the Charter procedures will follow the provisions of the Florida Constitution that requires a dual vote to effect a transfer of a county, city or special district function or power"? During discussion, Mr. Wilson suggested that "As" replace "When" in the ballot title, and no objections were noted. Chairman Bomstein requested and received consensus by the members to vote on the entire issue; whereupon, Councilmember Bryan commented that Commissioner Latvala had a motion on the floor.

Thereupon, Sheriff Coats moved that the members vote on the amendment as modified; however, the motion died for lack of a second. In response to query by Mr. Kwall regarding Commissioner Latvala's motion, Chairman Bomstein stated that the motion had been withdrawn before the recess, and Commissioner Latvala concurred.

Thereupon, Mr. Kwall moved, seconded by Sheriff Coats, that the original language be adopted to go forward as part of the final report. Following discussion and upon roll call, the vote was:

Ayes: None.

Nays: Burns, Bryan, Davis, Jirotko, Latvala, Parks, Decker, Wilson, Cole, Bomstein, Kwall and Coats.

Absent and Not Voting: Sebesta.

Thereupon, Mr. Kwall moved, seconded by Sheriff Coats, that the language presented by Attorney Churuti following the recess be approved; whereupon, Chairman Bomstein clarified that the motion includes approval of the amendment and the amending language, and the seconder concurred. Following discussion pertaining to clarification of the amending language and upon roll call, the vote was:

Ayes: Cole, Wilson, Decker, Latvala, Davis, Kwall, Coats and Bomstein.

Nays: Parks, Jirotko, Bryan and Burns.

Absent and Not Voting: Sebesta.

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Chairman Bomstein noted that Amendment No. 4, Deletion of the Requirements for the Dual Vote, has been approved to go forward as part of the final report.

Amendment No. 5 – Annexation (Miscellaneous Controls)

Attorney Bennett provided an overview of the proposed charter amendment and noted that the proposed amendment to the amendment would include notice to both property owners and registered electors in a referendum election; whereupon, in response to query by Ms. Parks, he indicated that the intent of the maker of the original motion was to ensure that both property owners and electors received notice; and that the language had not been included in the proposed amendment.

Mr. Kwall moved, seconded by Mr. Davis, that Amendment No. 5 be approved as modified; whereupon, during discussion, Councilmember Bryan noted that ten people spoke in opposition and three people in favor of the proposed amendment during the public hearing process; and expressed concern regarding the fact that the proposed amendment requires more than a majority to win an initiative at the election polls. In response to query by Mr. Wilson, Councilmember Bryan related that he is addressing all of the amendments concerning annexation, and not just Amendment No. 5.

During additional discussion, Chairman Bomstein pointed out that a two-thirds majority is required only in non-referendum referendum elections; and Councilmember Bryan commented that the annexation items would also have to be approved by the legislature; that a state law would have to be enacted making Pinellas County an exception to state annexation laws; and that approximately 98 percent of annexations are successful, negating the need for a special law; whereupon, Chairman Bomstein related that the intent of the amendments is to address abuses to the annexation system. Discussion continued during which Commissioner Latvala stated that the purpose of the proposed annexation amendments is to put protections in place for citizens who do not wish to be annexed; and that the BCC has always been in support of voluntary annexations.

Discussion continued pertaining to the process whereby a citizen can revoke consent to annex up until the closing of the second public hearing, the seven-year hiatus, and a letter addressing proposed changes to the amendment received from Mr. Hamilton, representing the Pinellas Planning Council; whereupon, Chairman Bomstein called the question. Upon roll call, the vote was:

Ayes: Wilson, Parks, Latvala, Jirotko, Davis, Burns, Coats, Kwall and Bomstein.

Nays: Cole, Decker and Bryan.

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Absent and Not Voting: Sebesta.

Chairman Bomstein noted that Amendment No. 5, Miscellaneous Controls, has been approved to go forward as part of the final report.

Amendment No. 6 – Annexation (Limitations on Incentives)

Attorney Bennett reviewed the proposed amendment, and noted that there are no recommended changes; whereupon, he referred to a letter from City of Pinellas Park Attorney James W. Denhardt, a copy of which has been filed and made a part of the record, and noted that Mr. Denhardt indicated that incentives should not be an issue with regard to voluntary annexations. Attorney Bennett related that after conducting research, he has determined that incentive issues exist with both voluntary and involuntary annexations; whereupon, Chairman Bomstein added that the CRC had determined that material incentives would apply in any situation that did not serve a paramount public purpose.

Following additional discussion, Ms. Parks moved, seconded by Commissioner Latvala, that Amendment No. 6 be approved; whereupon, Chairman Bomstein called the question. Upon roll call, the vote was:

Ayes: Burns, Davis, Jirotko, Latvala, Parks, Decker, Wilson, Cole, Kwall, Coats and Bomstein.

Nays: Bryan.

Absent and Not Voting: Sebesta.

Chairman Bomstein noted that Amendment No. 6, Limitations on Incentives, has been approved to go forward as part of the final report.

Amendment No. 7 – Annexation (Consent Requirements)

Attorney Bennett provided an overview of the proposed amendment; whereupon, Chairman Bomstein reiterated that it addresses commercial property owners who are voluntarily requesting to annex into a city; and that the amendment change states that only 33 percent of unwilling neighboring properties can be forced to annex.

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At this time, 7:46 P.M., Mr. Kwall left the meeting.

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Following a brief discussion, Commissioner Latvala moved, seconded by Mr. Wilson, that Amendment No. 7 be approved . Upon roll call, the vote was:

Ayes: Burns, Davis, Jirotko, Latvala, Parks, Wilson, Cole, Bomstein and Coats.

Nays: Bryan and Decker.

Absent and Not Voting: Sebesta and Kwall.

Chairman Bomstein noted that Amendment No. 7, Consent Requirements, has been approved to go forward as part of the final report.

Special Act – Future Authorization to Repeal Charter

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At this time, 7:48 P.M., Mr. Kwall returned to the meeting via telephone conference call.

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Chairman Bomstein advised Mr. Kwall that Amendment No. 7 had passed by a vote of 9 to 2; whereupon, Attorney Churuti indicated that Mr. Kwall could vote on the item. Mr. Kwall voted in the affirmative; whereupon, Chairman Bomstein noted that the final vote of Amendment No. 7 is 10 to 2.

Attorney Churuti explained that the Special Act would afford future CRCs the ability to repeal the charter; and noted that the St. Petersburg Chamber of Commerce has endorsed the provision; whereupon, Commissioner Latvala moved approval of the Special Act.

Chairman Bomstein added that the legislature must pass the Special Act to grant future CRCs the authority to repeal the charter if they deem it necessary; whereupon, Mr. Decker seconded the motion. Upon roll call, the vote was:

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Ayes: Cole, Wilson, Decker, Parks, Latvala, Jirotko, Davis, Bryan, Burns, Coats, Kwall and Bomstein.

Nays: None.

Absent and Not Voting: Sebesta.

DISCUSSION OF FINAL REPORT OF THE CRC

Mr. Spitzer referred to a draft copy of the final report; noted that the report and proposed amendments are due to the BCC no later than July 1; and that he will complete the report and submit it to the members for review by early next week.

In response to query by the Chairman, Attorney Churuti related that the final report does have to be approved by the members; that the draft can be approved tonight; that authority can be delegated to the Chairman to ensure that all information has been included in the final report; that as previously discussed, he has authority to work with the County Attorney's Office to ensure that the ballot question language has been conformed to the Florida Administrative Code provisions; and that no substantive changes are expected to be made.

Councilmember Bryan moved, seconded by Ms. Parks, that Chairman Bomstein be delegated the authority to review and approve the final report and ballot question language. In response to query by Attorney Churuti regarding an opportunity for the members to review another draft final report, Mr. Spitzer indicated that he would distribute the report; and Chairman Bomstein added that he will make certain that each member receives a copy of the report; and that comments can be made to Mr. Spitzer with regard to any inconsistencies.

During discussion, Mr. Decker commented with regard to the members' earlier recommendation that the BCC be given parameters pertaining to the composition of future CRCs during the appointing process; and requested that the recommendation be included in the final report; whereupon, Chairman Bomstein noted consensus by the members; and at the request of the Chairman, Councilmember Bryan moved, seconded by Ms. Parks, that the additional recommendation be accepted.

OTHER BUSINESS

Attorney Churuti indicated that it is typical to delegate authority to the Chairman at the end of the CRC process to make corrections to scrivener's errors, grammar and technical issues; and that any errors will be included in the report; whereupon, Commissioner Latvala

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commented that authority to approve any expenditures to close out the session should also be included.

Thereupon, Ms. Cole moved, seconded by Mr. Decker and carried, that authority be delegated to the Chairman to correct errors and approve expenditures.

Discussion continued during which Attorney Churuti suggested that the panel be officially adjourned as of election day, November 7, 2006, unless the Chairman is required to reconvene the panel before that date; whereupon, Mr. Davis moved, seconded by Ms. Parks, that the panel be officially adjourned as of November 7, 2006. Following a brief discussion and upon call for the vote, the motion carried unanimously.

Thereupon, Attorney Churuti announced that the panel, once reconstituted, is required to serve through December 1, 2006; and that it can be adjourned today with the understanding that the Chairman may need to reconvene the panel if necessary; whereupon, Chairman Bomstein requested and received consensus by the members to amend the language of the previous vote.

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At this time, 7:59 P.M., Mr. Kwall left the meeting.

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During discussion pertaining to the public education process, Assistant County Administrator Elithia V. Stanfield referred to the 2004 session and reminded the members that they had committed to speaking engagements, but that county staff had ultimately handled a lot of the educational process. She related that staff was in an awkward position at times advocating for issues that were the results of an independent body; whereupon, she requested that the members give consideration to the issue during deliberation pertaining to the public education process. Chairman Bomstein urged the members to do their civic duty in representing the commission.

Chairman Bomstein expressed appreciation to Mr. Spitzer and the members; whereupon, in response to query by Mr. Wilson, Attorney Churuti indicated that the members continue to fall under the Sunshine Law; and that an appearance at a public forum for the purpose of educating the public is considered a public forum exception to the Sunshine Law.

Mr. Davis, Commissioner Latvala and Ms. Burns expressed appreciation to the Chairman, other members, and Roy Harrell.

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ADJOURNMENT

The meeting was adjourned at 8:07 P.M.