

Clearwater, Florida, January 6, 2016

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-950, Laws of Florida) was held at the Pinellas County Utilities Building, 4th Floor Conference Room, 14 South Fort Harrison Avenue, Clearwater, Florida, at 3:30 P.M. on this date with the following members in attendance:

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

Not Present

Johnny Bardine
Joshua Shulman

Also Present

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

AGENDA

1. Call to Order (CRC Chairman)
2. Public Comment on Items on this Agenda (CRC Chairman)
3. Approval of Minutes – December 9, 2015 Meeting (CRC Chairman)
4. General Counsel Report (Vose Law Firm)
Update on Assigned Research

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5. Facilitation Team Report and Direction (DM&A)
 - a. Process Flow for Moving a Topic Forward
 - b. Status on Running List of Topics
 - c. Website Update
6. Charter Amendment Topics (DM&A)
 - a. New Topics via Email (Items 21-24)
 - b. Recall Provision for Elected Officers
 - c. Section 2.02(e) Human Rights
 - d. Change Election of Constitutional Officers to Non-Partisan
 - e. New Topics from CRC Members
 - f. Scheduling Next Topics
7. Review of Action Items (CRC Chairman)
8. Adjournment (CRC Chairman)

CALL TO ORDER AND OPENING COMMENTS

Chairman Olliver called the meeting to order at 3:30 P.M. and welcomed those in attendance; whereupon, as an informational item, he related that the Board Reporter takes attendance at each meeting, and the minutes reflect members who are present and absent and show the late arrivals.

Later in the meeting, Chairman Olliver announced that the items on the agenda are not necessarily in the same order as on the agenda initially posted on the website.

PUBLIC COMMENT

In response to the Chairman's call for persons wishing to be heard, the following individuals appeared and expressed their concerns:

H. P. Wheeler, Palm Harbor – (1) 2016 Schedule, and (2) Term Limits.

David Ballard Geddis, Jr., Palm Harbor – Section 2.02(e) Human Rights re gender and sexual orientation (submitted handouts).

John Shaw – Make elections partisan; show party affiliation on the ballot for the sake of transparency and convenience of the voters.

Todd Jennings, Belleair – Make elections partisan for Constitutional Officers.

Dan Jordan, Clearwater - (1) Make elections partisan for Constitutional Officers and (2) Term Limits.

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Barbara Haselden, St. Petersburg - Show party affiliation on the ballot for municipal elections and for Constitutional Officers.

J. B. Pruitt, Clearwater – (1) Term Limits, (2) change composition of CRC, (3) institute test for knowledge of U.S. and Florida Constitution for County Commissioners, Constitutional Officers, and voters, and (4) make elections non-partisan.

Dr. Stephanie Montor, St. Petersburg – Make elections partisan; party affiliation matters.

Marcus Harrison, Palm Harbor (unincorporated) – (1) Procedure for deciding topics to move forward, (2) allow citizens to comment on topics immediately before vote is taken, (3) let the voice of the citizens be heard, (4) open up primary elections, and (5) party affiliation knowledge is helpful to uninformed voters.

In response to query by Clerk Burke and recognizing the complications of the Dual Vote provision in the Pinellas County Charter, Attorney Vose advised that the County Charter probably could not override a Municipal Charter; that no other Charter County in Florida addresses whether the municipal elections are partisan or nonpartisan; that it is permissible for cities to have partisan elections; and that the most direct route would be for the citizens to take up the matter with the cities; whereupon, he agreed to research the issue further.

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During public comments, Mayor Bradbury and Representative Ahern joined the meeting.

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MINUTES OF THE DECEMBER 9, 2015 MEETING – APPROVED AS AMENDED

Upon presentation by the Chairman, Mr. Sewell moved, seconded by Mr. Steck, that the minutes of the December 9, 2015 meeting be approved. Following discussion, Chairman Olliver stated that the motion would include an amendment to Item 1 under *Sequencing of Topics* (Page 8) to show that the topic *Term Limits* was sponsored by Representative Ahern and Mr. Sewell, and no objections were noted. Upon call for the vote, the motion to approve the minutes as amended carried unanimously.

GENERAL COUNSEL REPORT

UPDATE ON ASSIGNED RESEARCH

Attorney Vose referenced his memorandum to the members relating to the amendment of the Pinellas County Charter to provide for the recall of County Commissioners and Constitutional Officers, and related that he would address the subject later in the meeting when it appears on the agenda; and that he will provide an analysis regarding partisan and non-partisan elections as soon as the order is handed down in a trial case currently pending in Orange County; whereupon, he requested direction as to the form of information the CRC would like him to provide for the Consolidation of Public Services and the Pinellas Suncoast Transit Authority (PSTA) topics.

FACILITATION TEAM REPORT AND DIRECTION

PROCESS FLOW FOR MOVING A TOPIC FORWARD

Ms. Meiller-Cook reviewed the process for moving a topic forward decided upon at the last meeting and shown on the chart included in today's agenda packet; whereupon, Chairman Olliver related that he left the last meeting concerned that the model does not seem to fit long term, as it does not address the extent of research needed, does not provide a clear process to cull the list, and does not specify that a majority vote is required to put an item on the ballot.

Commissioner Long concurred, and stated that it is her understanding that as the Florida Supreme Court has ruled on term limits, the topic is no longer relevant. Attorney Vose stated that the ruling of the Supreme Court is not the end of the story and provided background information. He related that citizens believe that because they approved term limits when they were placed on the ballot by the Charter Review Commission of 1996, this Commission should decree that they be placed in the Charter; and that his legal opinion is that due to the most recent litigation, this body does not have that authority; whereupon, he asked that the Commission declare its intent going forward regarding term limits and provide direction as to how it would like him to direct his research.

In response to a suggestion by the Chairman, Commissioner Long moved, seconded by Mr. Harless, that a majority of the Commission must agree before a topic can be moved forward for substantive research/workshop, and discussion ensued. Clerk Burke provided input, suggesting that the sponsor make a short presentation before the Commission decides whether to move a topic forward, and the Chairman concurred that a discussion on the merits of the topic was assumed in the motion, and no objection was noted. Mr. Pressman proposed that due to public interest in the more controversial topics, the vote should be shown as a preliminary vote, and Ms.

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Meiller-Cook suggested that the term “interest-level” be used; whereupon, Commissioner Long accepted the suggestion as a friendly amendment, and the seconder concurred.

In response to query by Ms. Caron, Chairman Olliver reviewed the Commission’s timeline, noting that it may be adjusted moving forward. He indicated that the referendum language should be ready to move forward in May; and that two public hearings must be held before the referendum comes back before the CRC for a final super-majority vote; whereupon, in response to a comment by Commissioner Long, Attorney Vose advised that once it leaves the CRC, neither the Board of County Commissioners (BCC), the County Attorney, nor any other body can make changes to the referendum language.

Upon call for the vote, the motion carried unanimously.

STATUS ON RUNNING LIST OF TOPICS

Ms. Meiller-Cook reviewed the status of the ten topics on the list, noting that Attorney Vose is researching Term Limits and the Dual Vote and has asked for further direction as to the type of research the Commission requires; whereupon, Mr. Steck expressed concern that the Commission would be overwhelmed at the last minute and suggested scheduling the items as soon as possible.

Term Limits – Continued to February 17 Meeting

Clerk Burke moved, seconded by Mr. Sewell, that the Term Limit discussion be held at the first meeting in February and a workshop be scheduled. Following discussion, Clerk Burke agreed that the topic would be addressed at the February 17 meeting instead, and the seconder concurred; whereupon, after confirmation by Attorney Vose that the research would be complete and upon call for the vote, the motion carried unanimously. Later in the meeting, Ms. Meiller-Cook confirmed with the members that a speaker other than Attorney Vose would not be necessary.

Dual Vote – Continued to January 20 Meeting

In response to query by the Chairman as to whether the Commission would like to move forward with the Dual Vote issue, Commissioner Long provided historical information, opining that while the Dual Vote is unconstitutional, she is concerned that the issue would cause a firestorm that the Commission and the County are not prepared to address. Chairman Olliver commented that the County has stipulated that Term Limits are constitutional; whereupon, Mayor Bradbury confirmed that the Mayors have agreed to come out in full force against allowing the Dual Vote

topic to move forward. Following discussion in which Ms. Meiller-Cook reviewed why the topic was included on the list, Chairman Olliver suggested deferring a decision until the next meeting to allow the public and the Mayors to provide input. Clerk Burke indicated that he would like to have information presented explaining how the County has been impacted by the Dual Vote, and following discussion and with the concurrence of Chairman Olliver and Attorney Vose, Clerk Burke agreed to ask the County Attorney to provide historical insight and report to the full Commission at the January 20 meeting.

Selection of CRC Members – Continued to January 20 Meeting

Later in the meeting, Commissioner Long indicated that she would ask the Florida Association of Counties to forward information to Chairman Olliver regarding ways other counties select CRC members.

Greater Representation for the Unincorporated Areas - Continued

The facilitator indicated that the Commission needs to provide direction regarding the type of research it needs (see County Redistricting under agenda item New Topics from CRC Members).

Section 2.02(e) Human Rights – Discussed and Action Taken Later in the Meeting

Consolidation of Public Services – Continued

The facilitator indicated that time is of the essence, as the subject would require extensive research and resources. The topic was discussed later in the meeting.

Recall Provision – Discussed and Action Taken Later in the Meeting

Partisan/Non-Partisan Elections – Discussed and Action Taken Later in the Meeting

The facilitator pointed out that the public brought the subject up again today.

Campaign Restrictions – Continued to January 20 Meeting

Questioning whether the Charter is the appropriate place for restrictions on campaigning, Commissioner Long related that the County and most of the cities already have ordinances regulating elections. Attorney Vose advised that the Florida Statutes preempt most county and city regulations, and suggested the Commission narrowly tailor the restrictions it wishes to evaluate, and at the request of Clerk Burke, discussed the term “preemptive” as it relates to restrictions that might be prohibited by statute; whereupon, Mr. Steck indicated that he would so refine the amendment he plans to submit at the next meeting.

Can County Take Over Responsibility for PSTA – Continued to January 20 Meeting

Attorney Vose outlined legal issues his research has revealed, including that the PSTA was created by a Special Act; that it may not have been voted on by the citizenry; and that it is questionable whether the CRC has the right to act on a Special Act that was in existence prior to the Charter being created; whereupon, he asked for direction from the Commission as to the amount and type of research they would expect and, noting that extensive research by him would be expensive, suggested that PSTA officials be invited to appear before the Commission and provide historical background information, and discussion ensued.

Clerk Burke related that the reason he introduced the topic is that the PSTA is not a countywide organization, as some municipalities have opted out, yet still receive bus service. Citing the County's attempt to mend fences and create partnerships with the cities, Commissioner Long suggested that the leaders be invited to appear before the Commission and asked to participate in the PSTA discussion, noting that many things have changed since they opted out. Chairman Olliver related that cost should be a consideration, both the loss PSTA realizes because the cities opt out and the cost the cities would incur should they participate, and Ms. Caron concurred. Mayor Bradbury suggested that the County work with the cities to address the problem, similar to how the Metropolitan Planning Organization (MPO) and the Pinellas Planning Council (PPC) were unified.

In response to query by Representative Ahern, Attorney Vose confirmed that the Dual Vote requirement would come into play; that the Dual Vote applies to any issue that affects any change in function, service, power, or regulatory authority of a municipality; and that if the referendum passed countywide, but did not pass in the cities, enforcement would be difficult and litigation would be almost certain; whereupon, in response to a request by Clerk Burke, he agreed to advise the Commission when a topic is proposed whether it would trigger the Dual Vote requirement.

Thereupon, Chairman Olliver confirmed that Attorney Vose would do additional preliminary research that would include a determination of whether the matter lies within the authority of the CRC, and the CRC would decide at the January 20 meeting whether the topic would be advanced, and no objections were noted.

WEBSITE UPDATE

Ms. Meiller-Cook reported that the biographies of the members have been posted, the new public input form is in use, and the parking information regarding the meetings has been added.

MEETING PLACES AND PARKING

Chairman Olliver confirmed that the meetings would move to the County Extension Center for the April 6 meeting and explained why very few locations are suitable. In response to a comment by Mayor Bradbury that parking would be needed to accommodate the many mayors who would be attending the meeting when the Dual Vote is discussed, Ms. Hardwick presented an update on the parking situation, relating that the City of Clearwater is allowing the use of the 100 to 120 parking spaces at City Hall, located directly behind the Utilities building, and the information can be found on the website; whereupon, Clerk Burke recommended putting signs outside the building pointing to the City Hall parking lot, and Chairman Olliver asked that signs be used for future meetings when extra people might be expected.

CHARTER AMENDMENT TOPICS

Ms. Meiller-Cook indicated that Items Nos. 21-24 are new topics received via email, and would be addressed first; whereupon, she read each topic verbatim. During discussion of the new topics, Mr. Sewell recommended that after the CRC is adjourned in July, the Chairman send appropriate letters to the BCC Chairman recommending that, moving forward, the BCC take the topics into account; whereupon, Chairman Olliver concurred and directed the facilitator to collect the correspondence regarding public input, as the Commission seems to support citizen input but believes the CRC is not the proper forum to address the matter, and no objections were noted.

NEW TOPICS VIA EMAIL (ITEMS 21-24) REMOVED FROM LIST

BCC Appointments to Boards, Councils, and Committees/Special Districts Should Be Made by the County Commission as a Whole; No Individual County Commissioner Appointments Permitted (Item 21) – Removed From List

Attorney Vose indicated that the topic lies within the power of the CRC and could be added to the Charter; that the legal effect would be to override certain County ordinances, which would have to be amended; and that the item would not require further research; whereupon, Commissioner Long stated that all Board appointments are made from a list of applications submitted through the County website, and the people appointed are usually chosen because they have a particular expertise. A voice vote was taken in which no one voted to move the topic forward.

Update Charter to Require BCC to Allow “Comment Cards” Addressing Specific Agenda Items to be Sent Electronically (Item 22) – Removed From List

Commissioner Long explained the current process used to recognize comments on public hearing items; whereupon, Chairman Olliver commented that the only difference in the current operational policy and that proposed is that the correspondence is not read into the record. A voice vote was taken in which no one voted to move the topic forward.

Clarify in the Charter that the County Administrator Shall Not Be Given Authority to Make Appointments to Any Boards, Commissions, or Agencies (Item 23) – Removed From List

Commissioner Long stated that she has no knowledge of any committee appointments made by the County Administrator; whereupon, the Chairman directed that the matter be deferred to the next meeting to allow him and Commissioner Long to contact the County Administrator for specifics on whether this currently occurs or if it has occurred, and no objections were noted.

Later in the meeting, Commissioner Long indicated that she has learned that the County Administrator makes recommendations for appointments, but they are subject to approval by the BCC; whereupon, she moved, seconded by Mr. Sewell and carried unanimously, that Topic 23 be removed from the list.

Security of Rights of Citizens (Grievance Procedure to Challenge Actions or Ordinances Established by the BCC That May Be Unlawful, With Legal Fees to be Paid by the County) (Item 24) – Deferred

Commissioner Long stated that the County Attorney is present at all BCC meetings, and he would not allow the Board to do anything unlawful. Following discussion, Chairman Olliver indicated that the person who submitted the topic would be asked to appear at the next meeting and explain the grievances, where they are occurring, and why he believes business is not being carried out in an appropriately legal fashion, or to submit the information electronically, and no objections were noted; whereupon, Commissioner Long asked that the examples be provided electronically before the meeting so the members could address them thoughtfully.

RECALL PROVISION FOR ELECTED OFFICERS – REMOVED FROM LIST

Later in the meeting, Ms. Meiller-Cook indicated that Mr. Shulman could not attend today’s meeting and read into the record correspondence received from him arguing for the proposal, that stated, in part, that the ability to recall a Constitutional Officer would add a measure of accountability that does not now exist.

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Attorney Vose referenced a memorandum he submitted to the Commission dated January 4, 2016, which has been filed and made a part of the record, laying out his preliminary legal analysis of a proposed recall provision relating to County Commissioners and Constitutional Officers.

Recall of County Commissioners

Attorney Vose indicated that the Pinellas County Commissioners are presently subject to recall pursuant to Section 100.361(1) of the Florida Statutes, which was amended in 1990 (Chapter 90-3150, Laws of Florida) and adding the provision to the Charter would not have a differential legal effect, although it would ensure against a future Legislature changing its mind; whereupon, in response to query by Clerk Burke, he explained how the current recall process works: (1) A recall petition is started that sets forth a basis for the recall, (2) the requisite number of signatures is collected, (3) the signatures are submitted to the Supervisor of Elections, (4) the office holder responds and the information is transmitted out, (5) the recall goes to a vote and, (6) if a majority of the electorate votes to recall, the office holder is removed from office; whereupon, he stated that as a practical matter, a recall is exceedingly rare.

Thereupon, in response to query by Mr. Sewell and Clerk Burke, Attorney Vose confirmed that imposing a recall provision in the Pinellas County Charter for County Commissioners would not be necessary, as provisions already exist in the Florida Statutes, but would be permissible.

Recall of Constitutional Officers

Attorney Vose indicated that there is not a provision in the Florida Constitution or the Florida Statutes subjecting Constitutional Officers to recall; and that seven Charter counties provide for the recall of Constitutional Officers, noting that they fall into two general categories: (1) the Offices are abolished as Constitutional Officers and the duties transferred to Charter Officers, pursuant to Article VIII, Section 1(d) of the Florida Constitution, or (2) the Constitutional Officers are subject to recall without being converted to Charter Officers; whereupon, he pointed out that just because some counties have abolished the offices does not mean it is legal; it only means that the provisions have not been challenged. Clerk Burke related that the Governor has the authority to remove a person from office for malfeasance or for illegal acts.

Attorney Vose reviewed the 2012 *Telli v. Broward County* case, indicating that it is the case in which the Florida Supreme Court receded from the opinion it rendered ten years earlier in *Cook v. City of Jacksonville*, which had held that county charters could not impose term limits on county officers, and discussed the relationship to the *Pinellas County v. Eight is Enough in*

Pinellas case; whereupon, he indicated that the information in his memorandum is also applicable to the Term Limit discussion to be held later.

In response to queries by Mr. Sewell and Mayor Bradbury, Attorney Vose advised that imposing a recall provision on Constitutional Officers in light of the particular protections in the Pinellas County Charter would be inviting a potentially meritorious lawsuit; and confirmed that the Governor can remove the Constitutional Officers and there is already a Florida Statute to remove County Commissioners.

Thereupon, Representative Ahern moved, seconded by Mr. Harless, that the topic *Recall of Constitutional Officers* be removed from the list.

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At this time, 5:56 P.M., Mr. Sewell moved, seconded by Mr. Harless and carried unanimously, that the meeting be extended for 30 minutes.

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SECTION 2.02(E) HUMAN RIGHTS – REMOVED FROM LIST

During discussion, Ms. Bell withdrew her earlier concerns. Ms. Meiller-Cook related that while Mr. Shulman continues to believe the topic should be added to the Charter, he understands it is already covered by State and Federal Laws and respects the argument that putting it in the Charter might jeopardize the County ordinance. Attorney Vose related that his research indicates it would be difficult to encapsulate into the Charter Referendum all the things addressed in the ordinance; and Commissioner Long indicated that the County received extensive public input on the ordinance and worked closely with the Director of Human Rights.

Thereupon, Mr. Sewell moved, seconded by Commissioner Long and carried unanimously, that the topic be removed from the list.

CHANGE ELECTION OF CONSTITUTIONAL OFFICERS TO NON-PARTISAN – REMOVED FROM LIST

Attorney Vose referenced his January 4 memorandum, and indicated that portions of the research outlined in the memorandum apply to this topic. He discussed a current lawsuit in Orange County in which the Constitutional Officers are seeking to invalidate a 2014 provision in the Charter that converted them to non-partisan offices and non-partisan elections, and related that he is hesitant to advise the Commission until the ruling comes down.

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He stated that the Pinellas County Charter has particular protections for Constitutional Officers, and advised that, in his opinion, changing them to non-partisan would change their *status* and would be subject to substantial challenge in light of those protections; whereupon, in response to query by Representative Ahern, he suggested that if the CRC decides to make the change, it specify the timing of the elections.

Thereupon, Mr. Pressman moved, seconded by Representative Ahern and carried unanimously, that the topic be removed from the list.

NEW TOPICS FROM CRC MEMBERS

Nonconforming Property

Mr. Steck indicated that the Board of Realtors is proposing that if a building is destroyed by storm or otherwise, whatever was there before would be grandfathered in as an exception to the Code, and Mr. Pressman provided input; whereupon, Chairman Olliver asked that the Board of Realtors complete the public input form and provide documentation.

Human Trafficking (Withdrawn)

Mr. Steck related that the Florida Attorney General is establishing new procedures and requirements for trafficking cases, and suggested that the County put appropriate regulations, fines, or punishments in the Charter. Commissioner Long indicated that the issue is on the current BCC agenda and an ordinance will be on the next one; whereupon, Mr. Steck withdrew the topic.

County Redistricting

Mr. Harless asked that County Redistricting be added as a topic, and Chairman Olliver suggested that it be combined with unincorporated area representation; whereupon, Mr. Burke indicated that he would ask the County Administrator and/or County Attorney and the Supervisor of Elections to give a presentation to the CRC, and Chairman Olliver requested that they also address the representation topic; and Commissioner Long expressed her concerns.

SCHEDULING NEXT TOPICS

Chairman Olliver indicated that topics on the January 20 agenda would include the Dual Vote, PSTA, Security of Rights of Citizens (No. 24), Campaign Restrictions, and the Selection of CRC Members; and that Consolidation and Representation in the Unincorporated Areas/Redistricting would require more discussion and would be on a later agenda.

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REVIEW OF ACTION ITEMS

At the Chairman's request, Attorney Vose discussed the Consolidation of Services topic, and stated that it may involve a gargantuan amount of research and should be studied thoroughly; and suggested that a provision be placed in the Charter mandating a Study Commission on Consolidation to dig into the issues. Commissioner Long suggested that the CRC recommend to the BCC that it work with the municipalities to develop ways to provide more effective and cost-efficient services to the citizens; and in response to query by Clerk Burke, Attorney Vose related that the proposed Study Commission on Consolidation could have time limits; and that he would bring a model of the action taken by Orange County to the next meeting; whereupon, Chairman Olliver indicated that the topic would remain on the agenda.

Mr. Steck asked that Attorney Vose supply information about other topics Orange County has considered.

ADJOURNMENT

Upon motion by Mr. Sewell, seconded by Ms. Caron and carried unanimously, the meeting was adjourned at 6:30 P.M.