

Clearwater, Florida, February 17, 2016

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-590, 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, via telephonic conference call)
Sandra L. Bradbury, City of Pinellas Park Mayor
Ken Burke, Clerk of the Circuit Court and Comptroller (late arrival)
Janet C. Long, County Commissioner (late arrival)
Johnny Bardine
Keisha Bell
Ashley Caron
Barclay Harless
Todd Pressman
James Sewell
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
Lynn M. Abbott, 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 – February 3, 2016 Meeting (CRC Chairman)
4. Facilitation Team Report and Direction (DM&A)
 - a. Referendum Topics List
 - b. Draft Topics for White Paper

5. Charter Amendment Topics
 - a. Term Limits (#1) (Vose Law Firm)
 - b. New Topics from CRC Members (DM&A)
 - c. Scheduling Next Topics (DM&A)
6. Review of Action Items (CRC Chairman)
7. 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, he announced that Representative Ahern, who will be attending via a telephonic conference call, and Clerk Burke will join the meeting later.

PUBLIC COMMENT

In response to the Chairman's call for persons wishing to be heard, the following individuals appeared and offered their support for or opposition to term limits:

- John Shaw, St. Petersburg (supports)
- Adrian Wyllie, Palm Harbor (supports)
- Ron Delp, Tarpon Springs (supports)
- Deb Caso, Palm Harbor (supports) (submitted document)
- Adelle Blackman, Tarpon Springs (supports)
- Tony Caso, Palm Harbor (supports) speaking for Patrick Wheeler, Palm Harbor (supports) (submitted document)
- Norm Lupo, Clearwater (supports)
- Diane Nelson, Pinellas County Tax Collector (opposes term limits for Constitutional Officers and related the affect term limits would have on the office)
- Dan Jordan, Clearwater (supports term limits for County Commissioners)
- Deborah Clark, Pinellas County Supervisor of Elections (opposes term limits for Constitutional Officers and related the affect term limits would have on the office)
- Pam Dubov, Pinellas County Property Appraiser (opposes)
- Kenneth T. Welch, Pinellas County Commissioner (opposes)
- Fred Kiehl, Largo (supports)
- Marcus Harrison, Palm Harbor (supports)
- Diane Lebedeff, Clearwater (opposes)
- Stacy Sellede, St. Petersburg (supports)
- Ernest Ferro, St. Petersburg (supports)
- Jim Pruitt, Clearwater (supports)
- Charles White, Clearwater (supports)
- Bob Gualtieri, Pinellas County Sheriff (opposes term limits for Constitutional Officers and related the affect term limits would have on the office)

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Dave Eggers, Pinellas County Commissioner (supports term limits for County Commissioners; opposes for Constitutional Officers)

David Ballard Geddis, Jr., Palm Harbor, appeared and discussed the Resource Act of 1972.

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Commissioner Long and Clerk Burke entered the meeting while the citizens were speaking.

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MINUTES OF FEBRUARY 3, 2016 MEETING – APPROVED

Upon presentation by Chairman Olliver, Commissioner Long moved, seconded by Mr. Sewell and carried unanimously, that the minutes of the meeting of February 3, 2016 be approved.

FACILITATION TEAM REPORT AND DIRECTION

REFERENDUM TOPICS LIST

Ms. Meiller-Cook reviewed the list of referendum topics to be placed on an agenda for discussion, a copy of which has been filed and made a part of the record.

DRAFT TOPICS FOR WHITE PAPER – NOT ADDRESSED

CHARTER AMENDMENT TOPICS

TERM LIMITS (#1)

Attorney Vose indicated that the term limits topic is primarily and foremost a policy discussion, and provided parameters within which the Commission can work. He referenced the *William Telli vs. Broward County* case, noting that it reversed the prior *Cook vs. City of Jacksonville* case that authorized term limits to be imposed on County Commissioners and Constitutional Officers in the State of Florida, and advised that under that case, the Pinellas County Charter can impose term limits on the County Commissioners; and that the *Eight is Enough* case also seems to indicate that the protection granted in the Charter to the Constitutional Officers in Pinellas County would not be implicated by an imposition of term limits.

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Attorney Vose indicated that the citizens have raised questions about various forms of retroactive term limits, and advised that the Commission should proceed with caution with regard to those, as his research has found no direct case law in Florida on retroactive term limits; whereupon, he reviewed two related species of retroactive term limits:

1. Extreme retroactive term limits that would purport to “kick off” immediately after the election any Commissioner who had already exceeded the maximum number of years, thereby creating a vacancy. Attorney Vose advised that it would be problematic under the structure of the Election Code to have one election undo another election at that same election and would be subject to substantial legal challenge.
2. Retroactive term limits that simply count prior terms, but do not purport to “kick” people out of office immediately upon its passage. Attorney Vose advised that there is support in other states going in both directions on whether or not this would pass Constitutional muster, pointing out that there is no law directly addressing this point in Florida.

Attorney Vose indicated that his research revealed that no county in Florida has imposed retroactive term limits in their Charter; and that the City of Miami Beach implemented them in 2014, and it is not known whether the action will be challenged; whereupon, he advised that while there might be some legal support in other States’ cases that might make them defensible, retroactive term limits would be subject to substantial challenge in litigation.

Attorney Vose advised that within the above parameters, the Commission does have the ability to put a Charter amendment on the ballot that would (1) impose term limits only on County Commissioners, not the Constitutional Officers, or vice versa; or (2) impose term limits on particular Constitutional Officers or any one; and that (3) the Commission has the right to not place a Charter amendment on the ballot, noting that as it is a policy determination, the 1996 amendment and subsequent litigation places the Commission under no legal obligation.

In response to query by Mr. Steck, Attorney Vose indicated that it is unknown exactly what the Florida Supreme Court meant when it “receded” from Cook but did not reverse the 2003 judgment invalidating the 1996 proposed amendment. He discussed the Pinellas County *Eight is Enough* case and stated that it has been held to mean that the recede language did not revive the prior Charter amendment.

In response to query by Clerk Burke and following discussion, Chairman Olliver indicated that eight out of the 13 members would need to vote affirmatively to move forward to place term

limits on the ballot. Following confirmation by the members, Chairman Olliver stated that the CRC had agreed that those present electronically could vote, and no objections were noted.

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At this time, 4:38 P.M., Representative Ahern indicated his presence, and the Chairman welcomed him to the meeting.

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Chairman Olliver opened the floor for discussion; whereupon, Representative Ahern stated that he considers term limits an important issue and is in favor of moving the issue forward.

In response to query by Mayor Bradbury, Attorney Vose advised that the Florida Supreme Court has, tortuously, resolved the primary question and ruled that term limits can be imposed on County Commissioners and Constitutional Officers; that he could not predict whether the elected officials would once more file suit should the citizens approve term limits a second time, noting that there is a better likelihood that the Constitutional Officers would file suit, and litigation by them would have more merit. He warned that there is always the potential for challenge based on the language of a Charter amendment and ballot question, but, should it be the will of the CRC, he would endeavor to make the language defensible to any challenge.

During discussion, the members made the following comments and observations:

Mr. Shulman stated that he opposes term limits for both the Constitutional Officers and the County Commissioners; that he has listened to the citizens, but has not heard a specific harm that the current structure does to the Pinellas County voters; that he is reluctant to limit the will of the people to remove a particular Commissioner from office by instituting an artificial calendar term limit; that State statute provides a recall provision for County Commissioners; that the Constitutional Officers have important institutional knowledge, and the skill set probably translates to the Commissioners; and that term limits have had a disastrous effect on State government.

Mr. Harless stated that he is torn on the issue and is open to being convinced; that having worked in Tallahassee for four years, he does not think term limits are conducive to good democracy; and that he opposes term limits, as he has faith in the voters, but, by the same logic, believes the people should decide the issue because they have already spoken; whereupon, Mr. Shulman agreed that the most compelling argument for term limits is that the voters should have an opportunity to decide the issue again.

Mr. Sewell stated that he shares the same concerns as Messrs. Shulman and Harless; that he is personally opposed to term limits for the Constitutional Officers and does not see a

particular reason to apply them to the Commissioners; and that he is in a quandary as to whether to put term limits back on the ballot for the voters to decide.

Clerk Burke provided historical information, and stated that he worked and voted for term limits in 1992; that he believes they have been bad for the State; that the leadership positions now hold all the power, and the rank and file members have very little authority; that a political class has been created in Tallahassee that runs from office to office and the same thing is happening in the counties with term limits; and that the CRC has an obligation to only put forth things that are good public policy.

Comm. Long related that she also voted for term limits and agrees with the Clerk that they have been detrimental to the government. Responding to the citizens who called for her to recuse herself due to a conflict of interest, she stated that she is not speaking for herself, but is representing the Board of County Commissioners. She stated that the scope of the County Commission is enormous, and it takes two to three years for a new Commissioner to become knowledgeable; that she does not believe term limits belong in the County Charter; that only a small percentage of the citizenry have appeared to talk about term limits; that to move the matter forward would only be setting the County up for more litigation and expense; and that she will not support moving the term limits topic forward.

Mr. Steck stated that the right to vote is fundamental in a democracy and it would be insulting to the citizens to have a calendar rather than a ballot box determine how long a Commissioner can serve.

Rep Ahern related that there is a big push in Washington for term limits at the Congressional and Senate levels; and opined that the Founding Fathers did not intend for the Congress and Senate seats to be career positions, and the same is true at the state and local levels. He indicated that many of the current legislators in Florida would not be in office except for term limits, as they could not have been elected because of the distinct advantage the incumbent has in name recognition and raising money; that preservation of the status quo is to the detriment of good government; and that term limits allow for an influx of fresh ideas and open up a spot for people of good character to come in and serve.

Representative Ahern stated that there is a precedent for term limits for County Commissioners, as the State Supreme Court has upheld the Broward County case; that the issue should be put on the ballot to allow the voters to decide and, perhaps, to correct a wrong; that the members have heard from the public, who are overwhelmingly in favor of term limits; that the CRC is in many ways obligated to address the issue; and that it is a viable idea to put term limits for the County Commissioners on the ballot and allow the voters to decide, noting that, if need be, term limits for the Constitutional Officers could be addressed at a later date.

In response to query by Ms. Bell, Attorney Vose stated that the cleanest way to deal with the timeline for Commissioners currently in office would be to specify it in the Charter amendment.

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Noting that his intent is to separate the issue, Mr. Sewell moved, seconded by Mr. Steck, that the CRC remove the Constitutional Officers from consideration for term limits.

None of the members responded to the call of the Chairman for discussion.

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

Mr. Wyllie To separate the question is to suppress the original intent of the voters, as the voters initially voted for term limits for both the Constitutional Officers and the Commissioners.

Mr. White Noted that the preponderance of opinion of the members is to not put the issue on the ballot. Said the way the CRC members are chosen smacks of "good ol' boy" oligarchy government.

Mr. Caso Check the facts and do not mess up the ballot language.

Mr. Pruitt Objects to claims of Constitutional Officers that only they can do the job. If elected, would hire people with expertise.

Mr. Geddis Actions taken today and policies being put in place affect the future of Pinellas County. Politicians are not being honest with the people when they do not give them the whole story.

Ms. Lebedeff One of the biggest problems with term limits is the loss of experience. Supports the motion for exception of Constitutional Officers from term limits.

Ms. Blackman Cronyism is evident on the CRC. Thanked Representative Ahern for caring about the people.

Mr. Ferro Seventy-three percent of the people have voted for term limits. Majority of the citizens still favor term limits. The lack of attendance is because few people know the CRC is in session due to lack of publicity.

Chairman Olliver opened the floor for discussion, and in response to query by Mr. Shulman, clarified that a "yes" vote would be voting to remove the Constitutional Officers from term limits consideration; whereupon, upon call for the vote, the motion to remove the Constitutional Officers from further consideration for term limits carried unanimously.

Representative Ahern moved that the CRC consider putting term limits on the ballot for the County Commissioners. Following consultation with Attorney Vose, Representative Ahern indicated that he would prefer that the number of years of the limit be left open for discussion.

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Chairman Olliver called for a second, none was heard, and the motion to consider term limits for the County Commissioners died for lack of a second; whereupon, Mayor Bradbury explained that she did not second the motion as it was open-ended.

Thereupon, Mr. Sewell moved, seconded by Mr. Shulman, that the CRC remove the County Commissioners from consideration for term limits. No one answered the Chairman's call for further discussion by the members.

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

Mr. Caso
Mr. Pruitt
Mr. Ferro
Ms. Lebedeff
Mr. Geddis
Ms. Caso
Commissioner Eggers
Mr. Harrison

Concerns of the citizens included:

- The CRC is suspect and should disband and a new Commission be formed.
- Democracy has been denied.
- The CRC did not attempt to work with the people and acted as "kings and queens."
- "Hit and Run" career politicians who go from job to job lead in the dark.
- County Commissioners could easily be replaced every eight years due to the County Administrator, County staff, and the chain of command.
- The issue deserved a discussion, as citizens have already voted overwhelmingly to approve term limits.
- The citizens should be advised of the options available for them to put the issue on the ballot.
- Money is synonymous with politics, and voting at the ballot box does not always guarantee changes needed to give citizens a voice.

Following citizen comment and in response to query by Mr. Pressman, Chairman Olliver confirmed that the motion on the floor is to remove the County Commissioners from further term limit consideration; whereupon, Commissioner Long called the question, and upon call for the vote, the motion to vote on the issue without further discussion carried 12 to 1, with Representative Ahern dissenting.

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Upon call for the vote, the motion on the floor to remove the County Commissioners from further term limit consideration carried 12 to 1, with Representative Ahern dissenting.

In response to comments by the citizens, Mr. Steck stated that he does not make his decisions lightly and is deeply offended that the audience feels he voted the way he did because of cronyism; whereupon, in response to a suggestion by Commissioner Eggers, Attorney Vose indicated that Section 6102 of the Charter provides for a citizen initiative to put a Charter amendment on the ballot.

NEW TOPICS FROM CRC MEMBERS - NONE

SCHEDULING NEXT TOPICS

At the suggestion of the Chairman, Commissioner Long moved, seconded by Mr. Sewell and carried unanimously, that the March 2 meeting be cancelled; whereupon, Chairman Olliver reviewed the remaining topics, and indicated that the following topics would be addressed at the March 16 meeting:

- Selection of CRC Members (Messrs. Harless and Shulman presenting)
- Non-Conforming Properties (Mr. Steck) (citizen to complete on-line public input form and to present)
- Procurement Process (Mr. Pressman)
- Selection/Review Process for County Attorney (Clerk Burke)
- Stormwater (Mr. Geddis, Citizen) (Mr. Geddis to complete on-line public input form and to present)

During discussion, Mr. Pressman related that the title *Procurement Process* is not quite representative of his topic; and that *Open Public Hearings during Procurement Process* would better define what he is attempting to accomplish, noting that he would like to have public hearings throughout the procurement process for large bids.

Mr. Shulman indicated that term lengths for County Commissioners is a separate issue from term limits; and that although it had been folded into today's term limits topic, it has not been addressed; whereupon, Attorney Vose, with input by Clerk Burke, advised that the Florida Constitution prohibits terms longer than four years for any office except as provided in the Constitution.

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Mr. Steck related that the issue of Representation in the Unincorporated Areas has not been addressed, and discussion ensued.

REVIEW OF ACTION ITEMS – NOT ADDRESSED

ADJOURNMENT

Chairman Olliver announced that the March 16 meeting would be the last one held at this location; whereupon, noting that a motion by Mr. Shulman and a second by Mayor Bradbury had carried unanimously, Chairman Olliver adjourned the meeting at 5:59 P.M.