

Pinellas Charter Review Commission 2015 – 2016 Agenda

Thursday, August 13, 2015

6:00 p.m.

Supervisor of Elections Mid County Office
13001 Starkey Road
Largo, Florida 33773

1. Call to order: Sarah M. Bleakley, Esq., Interim General Counsel
2. Self Introduction of Members of the Charter Review Commission
3. Introduction of Mary Scott Hardwick, Pinellas County Intergovernmental Liaison, Interim Staff of the Charter Review Commission
4. Public Comment as required by State Law
5. Election of Chairman of the Charter Review Commission
6. Election of Vice Chairman of the Charter Review Commission
7. Presentation regarding the Sunshine Law & Public Records Requirements
8. Presentation on the Charter Review Commission Website
9. Presentation on Charter County Powers and the Pinellas County Charter
10. Discussion of Hiring a Charter Facilitator
11. Discussion of Hiring a General Counsel
12. Approval of Future Meeting Dates, Times and Places
13. Approval of Next Meeting Agenda
 - a. Rules of Procedure for the Charter Review Commission
 - b. Hiring a Charter Facilitator
 - c. Hiring a General Counsel
 - d. Other issues as necessary and as determined by the Charter Review Commission

**Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015**

**Agenda Item 2
Self-Introduction of Members of the
Charter Review Commission**

Executive Summary:

This agenda item calls for the self-introduction of each of the 13 members of the CRC.

Background:

Section 6.03 of the Charter requires 13 members to be appointed by the Board of County Commissioners from the following groups:

- (1) One (1) member from the Pinellas County Legislative Delegation residing in Pinellas County;
- (2) One (1) constitutional officer;
- (3) One (1) member from the elected city officials;
- (4) One (1) member from the elected board of county commissioners; and
- (5) Nine (9) members from the public at large, none of whom shall be an elected official.

Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.

The Board of County Commissioners has approved the following members:

CRC MEMBER NAME	NOMINATED BY	OCCUPATION
Larry Ahern	Legislative Delegation	State Representative
Johnny Bardine	Gerard	Attorney
Keisha Bell	Welch	Attorney

CRC MEMBER NAME	NOMINATED BY	OCCUPATION
Sandra Lee Bradbury	Mayors' Council	Mayor
Ken Burke	Constitutional Officers	Clerk of the Circuit Court & Comptroller
Ashley Caron	Seel	Higher Education Administrator
Barclay Harless	Morrone	Retail Banker
Janet C. Long	BCC	County Commissioner
James Olliver	Long	Higher Education Administrator (Retired)
Todd Pressman	Eggers	Governmental Affairs
James Sewell	BCC	Law Enforcement Officer (Retired) / Consultant
Joshua Shulman	Justice	Certified Financial Planner
Thomas Steck	BCC	Realtor

Prepared by:

Sarah M. Bleakley
Nabors, Giblin & Nickerson, P.A.
Interim General Counsel
On: August 3, 2015

Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015

Agenda Item 4
Public Comment

Executive Summary:

This agenda item seeks public comment on the issues included on this meeting's agenda where action is contemplated to be taken by the CRC, specifically the election of the Chairman and Vice Chairman.

Background:

Section 286.0114(2), Florida Statutes, provides that "members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission" with some exceptions for emergencies, ministerial matters, and others.

The statute specifically allows for a commission to maintain order and proper decorum in a public meeting, and to adopt rules pertaining to such order. See, §286.0114(2), *Fla. Stat.* It is anticipated that the CRC will consider public comment and decorum rules at a future meeting.

Analysis:

No CRC action is required on this item. The public comment portion of the meeting is statutorily required for the CRC's information.

Prepared by:

Sarah M. Bleakley
Nabors, Giblin & Nickerson, P.A.
Interim General Counsel
On: July 31, 2015

Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015

Agenda Item 5
Election of Chairman

Executive Summary:

This agenda item seeks the election of a chairman from among the members of the CRC.

Background:

The Charter requires the CRC to elect two officers, a chairman and a vice-chairman, from among its membership. The full Charter provision states as follows:

Sec. 6.03. - Charter review commission.

* * *

(b) Each charter review commission shall meet prior to the end of the third week in August 2015, and every eight (8) years thereafter for the purposes of organization. **The charter review commission shall elect a chairman and vice-chairman from among its membership.** Further meetings of the commission shall be held upon the call of chairman or any three (3) members of the commission. All meetings shall be open to the public. A majority of the members of the charter review commission shall constitute a quorum. The commission may adopt other rules for its operations and proceedings as it deems desirable. The members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.

Analysis:

The Charter requires a chairman to be elected from among the CRC membership. The chairman is empowered by the Charter to call future meetings of the CRC. Although the Charter does not specifically provide other duties for the chairman, additional duties could be adopted by the CRC at a future meeting.

Nominations may be made by any member of the CRC and any member may serve as chairman upon election by a majority of the members present. Under *Robert's Rules of Order (Newly Revised 10th Ed.)*, if there is more than one nominee for chairman, the candidates will be voted on in the order in which they are nominated.

Options:

- (1) Nominate and elect a chairman from among the membership of the CRC at this meeting.
- (2) Provide other direction.

Recommendation:

Elect a chairman from among the membership at the meeting.

Prepared by:

Sarah M. Bleakley
Nabors, Giblin & Nickerson, P.A.
Interim General Counsel
On: July 31, 2015

Action Taken:

Nomination of _____ By _____ Votes in favor _____
Votes opposed _____

Nomination of _____ By _____ Votes in favor _____
Votes opposed _____

Nomination of _____ By _____ Votes in favor _____
Votes opposed _____

**Pinellas County Charter Review Commission – 2015-2016
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**Agenda Item 6
Election of Vice-Chairman**

Executive Summary:

This agenda item seeks the election of a vice-chairman from among the members of the CRC.

Background:

The Charter requires the CRC to elect two officers, a chairman and a vice-chairman, from among its membership. The full Charter provision states as follows:

Sec. 6.03. - Charter review commission.

* * *

(b) Each charter review commission shall meet prior to the end of the third week in August 2015, and every eight (8) years thereafter for the purposes of organization. **The charter review commission shall elect a chairman and vice-chairman from among its membership.** Further meetings of the commission shall be held upon the call of chairman or any three (3) members of the commission. All meetings shall be open to the public. A majority of the members of the charter review commission shall constitute a quorum. The commission may adopt other rules for its operations and proceedings as it deems desirable. The members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.

Analysis:

The Charter requires a vice-chairman to be elected from among the CRC membership. The Charter does not specifically provide any duties for the vice-chairman. Duties for the vice-chairman could be adopted by the CRC at a future meeting.

Nominations may be made by any member of the CRC and any member may serve as vice-chairman upon election by a majority of the members present. Under *Robert's Rules of Order (Newly Revised 10th Ed.)*, if there is more than one nominee for vice-chairman, the candidates will be voted on in the order in which they are nominated.

Options:

- (1) Nominate and elect a vice-chairman from among the membership of the CRC at this meeting.
- (2) Provide other direction.

Recommendation:

Elect a vice-chairman from among the membership at the meeting.

Prepared by:

Sarah M. Bleakley
Nabors, Giblin & Nickerson, P.A.
Interim General Counsel
On: July 31, 2015

Action Taken:

Nomination of _____ By _____ Votes in favor _____
Votes opposed _____

Nomination of _____ By _____ Votes in favor _____
Votes opposed _____

Nomination of _____ By _____ Votes in favor _____
Votes opposed _____

Government in a Fishbowl

Agenda Item 7
Presented to the
Pinellas County Charter Review Commission
August 13, 2015

Sarah M. Bleakley, Esq.

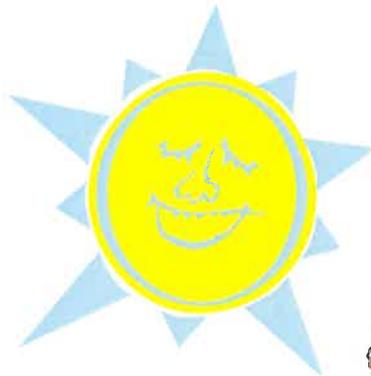
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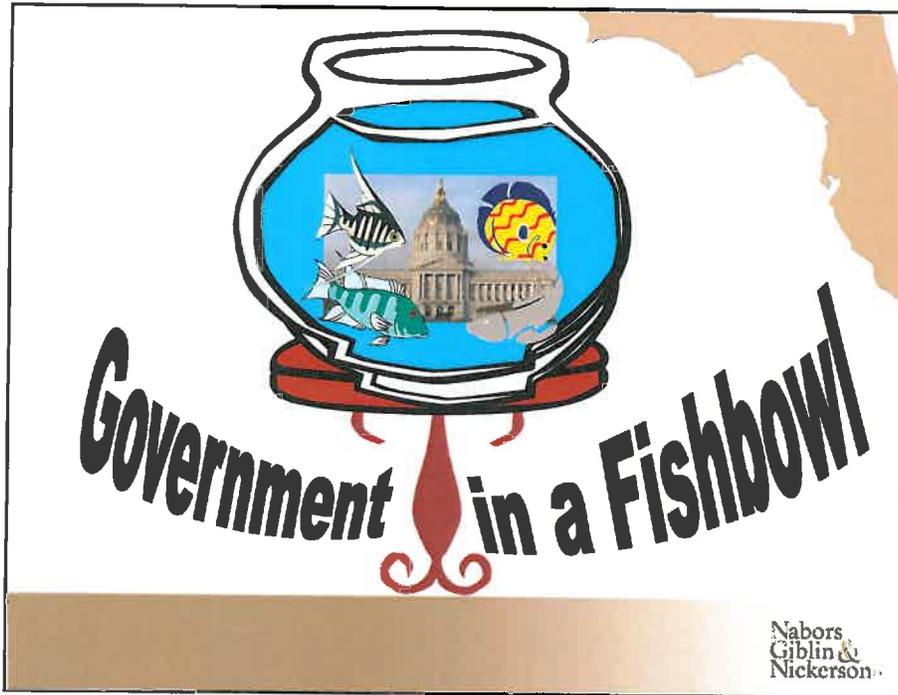
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Good
Day,
Sunshine



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THE LAWS

- SECTION 286.011, Florida Statutes, known as the “Sunshine Law”
- CHAPTER 119, Florida Statutes, known as the “Public Records Law”
- Both are constitutionally based: Article I, §24, Fla. Const.

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THE SUNSHINE LAW

- Meetings open to public
- Reasonable Notice of Meetings
 - Published
 - Location
 - Date and Time
- Minutes must be taken
- Agendas
- Public participation must be allowed

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MEETINGS OF:

- ❖ Boards, commissions and committees created by formal action of governing body
- ❖ Two or more members of same body
- ❖ Single member with delegated authority

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The Purpose of Open Meeting Laws

- Commissions, boards, and committees exist to conduct the people's business.
- These laws ensure that the deliberations and actions of boards and commissions are conducted in public.

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What Is a Meeting?

- Discussions of two or more members of same board/commission on some matter that foreseeably may come before the board/commission for action
- Memorandum/letters
- E-mail between members
- Daisy chain among members



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VERY LIMITED EXCEPTIONS TO THE SUNSHINE LAW

- Collective Bargaining
- Litigation
- Risk Management



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Are Social Occasions Meetings?



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Retreats

- A retreat is a meeting and must be open to the public.



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PENALTIES AND SANCTIONS



- Misdemeanor (knowingly)
- Action vacated
- Attorneys Fees

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Government-In- The-Sunshine Manual

- The 2015 Government-in-the-Sunshine manual may be found online here:

https://www.google.com/?gws_rd=ssl#q=2015+government+in+the+sunshine+manual

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Public Records

- Chapter 119, Florida Statutes, provides a right of access to the records of the CRC
- Statutory definition of “public records” includes:
 - . . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
- Official records
- Email and text messages

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Voting Conflicts of Interest

When you cannot vote as a member of an advisory committee!

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Special Gain or Loss

- Yourself
- Your relative (parents, children, siblings, and in-laws)
- Your business associate
- Your Principal (lawyer working for client)

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What is special?

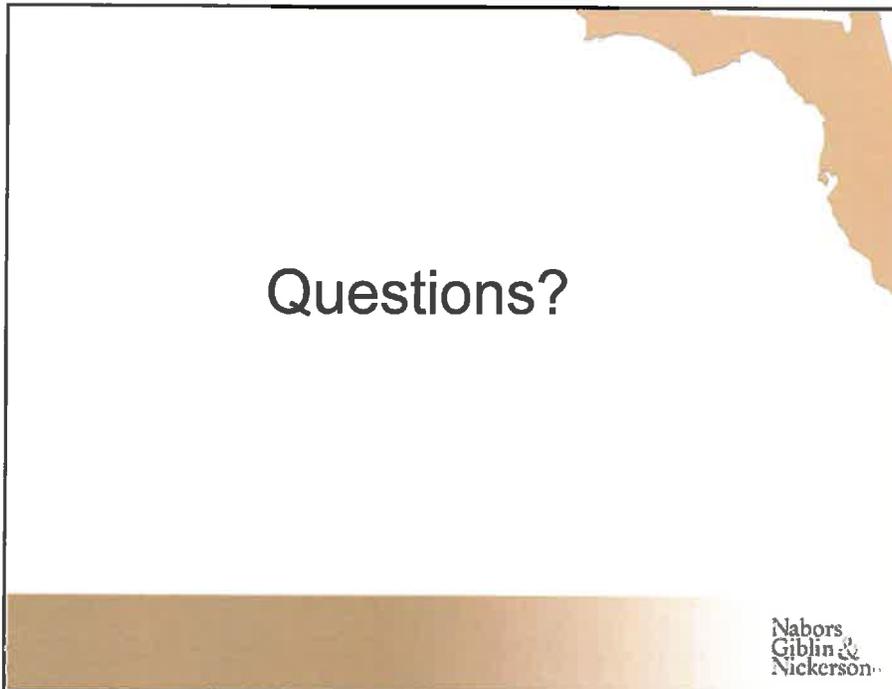
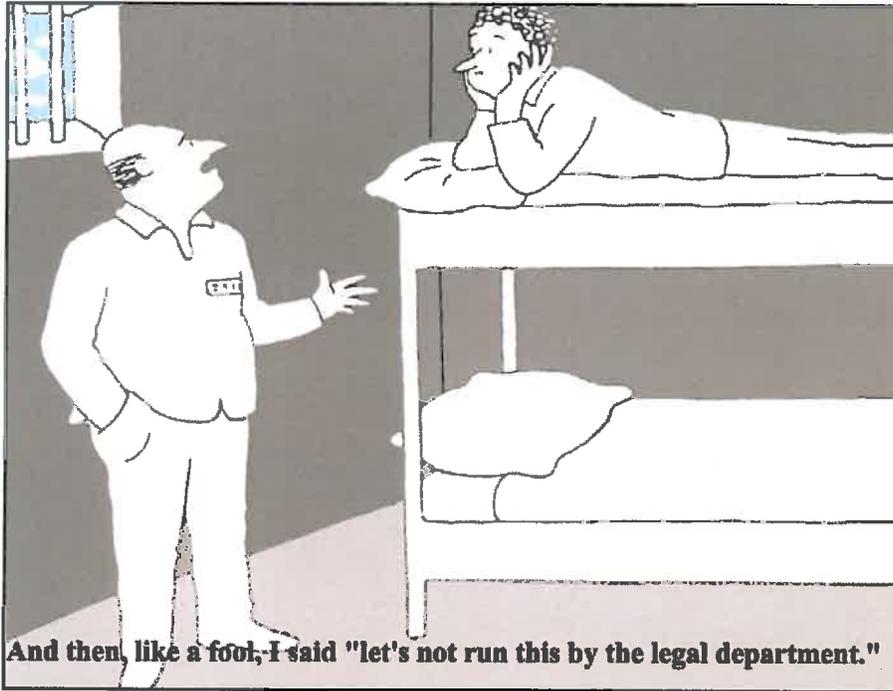
- Very fact specific – call your general counsel well in advance
- How big is the group that will gain or lose
- How speculative is the gain or loss
- CEO opinions
- Example: Keys – Charter boat owner considering funding to promote recreational fishing is not a conflict

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If you have a Voting Conflict

- You cannot vote
- You must declare at the meeting you have a conflict
- You must complete a CE Form 8B
- You may participate in discussions only if you publicly disclose your conflict.

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Charter County Government

Agenda Item 9
Presented to the
Pinellas County Charter Review Commission
August 13, 2015

Sarah M. Bleakley, Esq.

sbleakley@ngnlaw.com

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What's a County?

- Counties encompass all of Florida
- Political subdivision of the State.

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County Power Prior to 1968 Florida Constitution.

- No substantive provisions relating to the general power of counties existed in the 1885 Florida Constitution. Article VIII, section 1, Florida Constitution (1885), merely provided, "The State shall be divided into political divisions to be called counties."
- Dillon's Rule –counties had only the power authorized by the legislature either by general law or special act.

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1968 Constitution

- Authorized broad home rule powers for counties.
- Authorized charter and non-charter counties.

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Non-Charter County Power After the 1968 Constitution

- **NON-CHARTER GOVERNMENT.** Counties not operating under county charters shall have such power of self-government **as is provided by general or special law.** The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.
- Art. VIII, § 1(f), Fla. Const.

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Non-Charter County Power After the 1968 Constitution

- The constitutional contemplation of home rule power for non-charter counties required authorization by general law or special act.
- The legislature responded by enacting broad home rule powers in chapter 125, Florida Statutes.

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Charter County Power After the 1968 Constitution

- CHARTER GOVERNMENT. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.
- Art. VIII, § 1(g), Fla. Const.

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County Power After the 1968 Constitution

- The general rule is that unless county power is preempted by the Legislature, a county has the power to legislate on any subject for a public purpose.
- Home Rule

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Distinctions Between Charter and Non-Charter Counties

- Charter counties have protection against Legislative Special Acts unless the act is approved by the electors.
- County Charter determines which prevails: a municipal ordinance or a county ordinance.
- Charter counties have the power to levy municipal taxes.
- Charter counties can shape county government.

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Establishment of a Charter County

- “Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended, or repealed only upon vote of the electors of the county in a special election called for that purpose.”
- Article VIII, Section 1(c), Florida Constitution.

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Charter County Governing Body

- Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members One member residing in each district shall be elected as provided by law.
- Article VIII, Section 1(e), Florida Constitution.

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Charter County Officers

- If the charter does not otherwise provide, the following officers are elected for four year terms under the constitution:
- Sheriff
- Tax collector
- Property appraiser
- Supervisor of elections
- Clerk of the circuit court

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Charter County Officers

- A county charter can change the method by which a county office is chosen or it may abolish any county office where all the duties of the office are transferred to another office.
- Article VIII, Section 1(d), Florida Constitution.

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Charter County Creation

- Special act of the Florida Legislature
- Other methods of creating a charter, as authorized in the constitution, are set forth in Florida Statutes.
 - Ordinance
 - Initiative Petition

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Pinellas County Charter

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Pinellas County Charter Creation

- Originally proposed by special act of the Florida Legislature and approved in 1980.
- Revised several times by special act, charter review commission and board of county commissioners action.
- Voter approval required.

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Pinellas County Charter Structure

- Eight articles.
- Powers & duties, legislative branch, administration, and charter amendments.
- Several provisions address conflict with municipal authority

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Pinellas County Charter Powers & Duties of the County

- All powers of local self-government
- Rights of Citizens
- Manner of the exercise of powers

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Pinellas County Legislative Branch

- Article III.
- Board of County Commissioners.
- Ordinance adoption power.

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Pinellas County Administration

- Article IV
- County administrator executes and administers county government.
 - Accountable to board of county commissioners.
 - Sec. 4.01
- County attorney hired by the board.
 - Broad authority to represent.
 - Sec. 4.02

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Effect of Pinellas County Charter

- Article V
- Charter shall be liberally construed in favor of the county government, “except in those areas where jurisdiction is granted to, or reserved to, the municipalities. Sec. 5.02(c).

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Charter Amendments

- Article VI
- Proposed by board of county commissioners. Sec. 6.01.
- Proposed by citizen’s charter Initiative. Sec. 6.02
- Proposed by charter review commission.

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Charter Review Commission (“CRC”)

- Established every 8 years.
- Appointed by Board of County Commissioners.
- 13 members.
- Sec. 6.03

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CRC Membership

- One member of the legislative delegation
- One constitutional officer
- One elected city official
- One member of the board of county commissioners
- Nine members from the public at large, none of whom shall be an elected official

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CRC MEETINGS

- Meet and organize prior to the end of the third week in August after appointment.
- Elect chair and vice chair.
- Establish rules for operation and proceedings.
- Meet at the call of the chair or any 3 members.
- Take action with a quorum of 7 members.

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CRC Expenses

- Sec. 6.03(c)
- Space, staff, and other expenses paid from the county general fund.

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CRC Independence

- The CRC “shall review, on behalf of the citizens of Pinellas County, the operation of county government in order to recommend amendments to this charter.” Sec. 6.03(d).
- No compensation.
- Reimbursement for expenses.

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CRC Recommendations

- Report to citizens by July 31st. Sec. 6.03(e).
- Include any proposed amendments to the charter and ballot questions.
- CRC must hold two public hearings in recommending an amendment
- Offer single subject or multiple subject amendments.
- Subject to voter approval at the general election in November.

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CONSTITUTIONAL RESTRAINTS ON THE POWER OF THE CRC

- County charters are constrained by the United States and Florida Constitutions.
- The Constitution prohibits charter amendments that conflict with general law.

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PINELLAS CHARTER LIMITATIONS ON CRC

- Prohibits charter from changing the status, duties, or responsibilities of the following county officers: clerk of the circuit court, property appraiser, tax collector, sheriff, and supervisor of elections. Section 4.03.

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PINELLAS CHARTER LIMITATIONS ON CRC

- Prohibits revisions that change the status, duties, or responsibilities of certain boards, authorities, districts and councils: Section 5.02(b).

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OTHER LIMITATIONS ON CRC

- There are restrictions on reallocating power between the county and the municipalities.
- Charter amendments have been a fertile field of litigation.
- Seek advice of counsel.

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Questions?

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**Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015**

**Agenda Item 8
The Charter Review Commission Website**

Statement of Issue:

The Pinellas County Charter Review Commission has a publicly available website at www.PinellasCounty.org/Charter . This website is a resource both for the Charter Review Commission members and the public.

The website hosts historical documents as well as the most up to date Charter Review information. All meeting notices and agendas will be posted on the site throughout the charter review process. If the Charter Review Commission would like to seek public input electronically, the website can be used to facilitate that as well.

Recommendation: No action is required on this item.

Prepared by:

Mary Scott Hardwick
Pinellas County Intergovernmental Liaison
Interim CRC Staff
On: August 3, 2015

Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015

Agenda Item 10
Discussion of Hiring a Charter Facilitator

Statement of Issue:

The Pinellas County Charter Review Commission hires both a facilitator and legal counsel to assist them in their work. The hiring of outside staffing also protects the independence of the work of the Charter Review Commission. The fees for the facilitator are paid by the County and have been budgeted.

In order to expedite the hiring process, the County released a Request for Proposals (RFP) on May 5, 2015 with a due date of May 28, 2015 and received two responses by the end of submission window. The respondents to the RFP were Kurt Spitzer & Associates and Diane Meiller and Associates. A County ranking team consisting of representatives of the County Attorney's Office, County Administrator's Office, Office of Management and Budget, Real Estate Management and the Pinellas County Tax Collector, ranked the written proposals.

The Charter Review Commission will hear presentations from the two qualified submissions at the second meeting of the Charter Review Commission. The Charter Review Commission can then either rank the firms and add their rankings to the scores of the ranking team or the CRC can interview the firms and make their selections based entirely on the oral presentation. A representative from the Pinellas County Purchasing Department will be on hand to answer any questions.

Recommendation:

The Board interview the candidates and make a hiring decision at the next meeting of the Charter Review Commission.

Prepared by:

Mary Scott Hardwick
Pinellas County Intergovernmental Liaison
Interim CRC Staff
On: August 3, 2015

Action Taken:

Motion to: _____, Made by: _____;
Seconded by: _____.

Approved ____; Approved as amended ____; Defeated ____.

**Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015**

**Agenda Item 11
Discussion of Hiring a General Counsel for the CRC**

Statement of Issue:

The Pinellas County Charter Review Commission hires both a facilitator and legal counsel to assist them in their work. The hiring of outside staffing also protects the independence of the work of the Charter Review Commission. The fees for the outside counsel are paid by the County and have been budgeted.

In order to expedite the hiring process, the County released a Request for Proposals (RFP) on May 5, 2015 with a due date of May 28, 2015 and received two responses by the end of submission window. The respondents to the RFP were Gray Robinson and Vose Law Firm. A County ranking team consisting of representatives of the County Attorney's Office, County Administrator's Office, Office of Management and Budget, Real Estate Management and the Pinellas County Tax Collector, ranked the written proposals.

The Charter Review Commission will hear presentations from the two qualified submissions at the second meeting of the Charter Review Commission. The Charter Review Commission may then either rank the firms, adding their rankings to the scores of the ranking team or the Charter Review Commission can interview the firms and make their selections based entirely on the oral presentation. A representative from the Pinellas County Purchasing Department will be on hand to answer any questions.

Recommendation:

The Board interview the candidates and make a hiring decision at the next meeting of the Charter Review Commission.

Prepared by:

Mary Scott Hardwick
Pinellas County Intergovernmental Liaison
Interim CRC Staff
On: August 4, 2015

Action Taken:

Motion to: _____, Made by: _____;
Seconded by: _____.

Approved ____; Approved as amended ____; Defeated ____.

**Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015**

**Agenda Item 12
Discussion and Setting of Future Meeting Dates**

Statement of Issue:

The Pinellas County Charter Review Commission meets upon the call of the Chair or three members of the Charter Review Commission. The Charter Review Commission must complete its review of the Charter and submit its report to the public by July 31, 2016. Two public hearings for any proposed amendments or revisions to the Charter shall be conducted prior to the transmittal of the recommendations to the Board of County Commissioners for placement on the ballot.

Recommendation:

Set the date and time for the second meeting of the Charter Review Commission and discuss a future meeting schedule.

Prepared by:

Mary Scott Hardwick
Pinellas County Intergovernmental Liaison
Interim CRC Staff
On: August 3, 2015

Action Taken:

Motion to: _____, Made by: _____;
Seconded by: _____.

Approved ____; Approved as amended ____; Defeated _____.

**Pinellas County Charter Review Commission – 2015-2016
Thursday, August 13, 2015**

**Agenda Item 13
Discussion and Consideration of Next Meeting Agenda**

Statement of Issue:

This agenda item is intended to preview the agenda for the second meeting of the CRC.

- a. Presentation on and Consideration of Rules of Procedure for the Charter Review Commission
- b. Consideration of Hiring a Charter Facilitator
- c. Consideration of Hiring a General Counsel
- d. Other issues as determined by the Charter Review Commission

With regard to this draft agenda for the CRC's second meeting, it is appropriate for the CRC to consider and adopt the topics for discussion and consideration. During the discussion, any member may, by motion, suggest a specific item be added to the next meeting agenda. Staff recommends allowing the staff to add additional items that may be necessary for an orderly meeting and efficient process for moving the CRC forward on its path.

Options:

- (1) Approve a motion to adopt items a, b and c above as its agenda at its second meeting, allowing the staff to add other items as necessary; or
- (2) Approve a motion amending the agenda to include specified issues and allow staff to add other items as necessary.

Prepared by:

Sarah M. Bleakley
Nabors, Giblin & Nickerson, P.A.
Interim General Counsel
On: August 3, 2015

Action Taken:

Motion to: _____, Made by: _____;
Seconded by: _____.

Approved _____; Approved as amended _____; Defeated _____.