

Pinellas County Charter Review Commission

SUMMARY INFORMATION

February 9, 2006

OVERVIEW

Pinellas County is one of 19 Florida counties where the voters have adopted a charter. All of the urban counties have adopted charters, which operate like a “constitution” and establish the structure and powers of the county government. The County Commission, a Charter Review Commission or the Legislative Delegation may not amend a charter after the electorate has approved it – only the voters themselves may adopt changes to their county “constitution.”

- The CRC is an independent entity charged with reviewing the operation of county government and the charter, and making recommendations to the voters for revisions to the charter. There are 13 members of the CRC – four elected officials (a county commissioner, constitutional officer, city commissioner and a member of the legislative delegation) and nine laypeople.
- The recommendations of the CRC may not be rejected or amended by the County Commission. Other than appointing the CRC members and providing technical assistance, the BCC does not have a direct role in the deliberations of the CRC. The CRC has operated independently of the BCC.

LIMITATIONS OF THE PINELLAS CHARTER

The voters adopted the Pinellas charter in 1980 after being proposed by the Legislative Delegation. Unlike every other county charter in Florida, the Pinellas charter is best described as a “limited home rule” charter because the original proposal and the current charter contain many limitations on the types of revisions that can be considered directly by the voters. In the original charter, almost all future amendments to the charter could not be proposed without first being adopted by the legislative delegation.

- The 1998 CRC sought to remedy that situation. It considered two proposals that would have granted the electorate full home rule powers. One, allowing future consideration of amendments concerning the county constitutional officers, received majority CRC support but did not receive a majority-plus-one vote of the CRC.
- The other amendment, allowing future consideration of proposals relating to city-county powers and duties, passed the CRC but was amended by the delegation to require approval of city residents (in addition to countywide residents) before an amendment setting countywide standards could be adopted in the future.
- The result is that the Pinellas charter remains the most antiquated charter in Florida. All other charters – including those in much smaller and much less urban counties - afford the voters in their county greater control over their own destiny than does the Pinellas Charter.

RECOMMENDATIONS OF THE CRC - 2004

The current CRC was originally constituted in January of 2004. An amendment adopted by the voters in November 2004 extended the duration of the CRC through 2006. In addition to the amendment extending the CRC, four technical or “housekeeping” amendments were proposed to the voters for their consideration on the November 2004 ballot:

1) Non-Interference

The amendment prohibited county commissioners from giving instructions to employees of the county administrator, except through the administrator himself. Such “non-interference clauses” are common in city and county governments throughout the country and furthers the principal of separation of powers between the executive and legislative branches of the county government.

2) Budget Officer

The amendment designated the county administrator as being the budget officer for the county. The BCC had already taken such action by Resolution. The amendment codified the policy in the charter itself.

3) Manager Termination Procedure

The proposal clarified the process by which the county administrator is fired. The manager is hired by a vote of 5 out of 7 Commissioners. He or she is terminated either by a single vote of 5 Commissioners or by a vote of four Commissioners that occurs on two separate occasions. But the charter was unclear as to what kind of meetings of the BCC (regular or special?) and how much time (two weeks, two months, one year?) could separate the votes. The proposal clarified that in cases of termination with only four votes, such a vote must occur during two consecutive, regularly scheduled meetings of the BCC.

4) Administrator Employment Powers

The amendment would have clarified that the administrator could terminate senior staff without the seeking the concurrence of the BCC. This is consistent with the practice in other counties, and provides a new manager with the power and flexibility to build his or her team of senior staff members. The amendment failed to pass in November of 2004 and is currently being reconsidered by the CRC.

RECOMMENDATIONS OF THE CRC – 2006

The CRC has passed three housekeeping measures and has tentatively adopted several other proposals and recommendations that are of a “policy” nature.

1. Pinellas Sports Authority

The CRC recommended that the Authority be abolished. The Authority has been dormant for years. The Florida Department of Community Affairs has also recommended its abolishment.

2. Water and Navigation District; Mosquito Control District

The BCC currently serves as the governing body of these two districts. The CRC has recommended that the original special acts that created the districts be repealed, and that the duties and powers of the Districts be relocated to the county charter.

3. Administrator Employment Powers

This is a revised version of the amendment that failed to pass in 2004. It clarifies that the administrator may terminate senior staff without seeking the concurrence of the BCC.

4. Fire Services Policy

The CRC engaged MGT of America to conduct an efficiency study on the delivery of fire services in the county. MGT recommended that all fire services be consolidated under a single, countywide independent district. The CRC has not taken official action on that proposal but has adopted two other measures:

- 1) *Abolishment of Unincorporated Area Independent Fire Districts.* The proposal would abolish the four existing independent districts and transfers their assets and programmatic responsibilities to the county government. The County would fund the program via one or more MSTUs in the unincorporated area. The Board of County Commissioners would serve as the governing body and fire protection services in the unincorporated area would be a service under the control of the county. Fire services could also be provided by the

District to a city by contract or the boundaries of the dependent fire district could be expanded to include all or part of a city by consent of the city.

- 2) *Countywide Fire Standards.* The charter currently authorizes the County Commission to provide for the coordination and implementation of fire protection for the unincorporated area only. The provisions of a Special Act that were converted to an ordinance allow the County Commission to set minimal standards countywide but not “maximum” standards. And when the Act was converted to an ordinance, the County Commission was prohibited from revising the policy in the future. The proposal would allow the County Commission to set standards countywide.

5. Annexation Policy

Several measures concerning annexation were considered and adopted by the CRC. The amendments that have been adopted thus far will be contained in three separate measures. Note that legal counsel for the County and some cities are discussing certain technical aspects of some of the proposals and will report back to the CRC at their next meeting.

- 1) *Policy on “Non-Referendum” Referendum Annexations.* In cases where there are no electors in the area to be annexed, a city may not annex property within the proposed annexation area whose owner has not given express consent unless fifty percent of the entire boundary of such a parcel is surrounded by either incorporated properties of the annexing jurisdiction or property owners consenting to the proposed annexation, and the total percentage of consenting property owners in the proposed annexation (on both a parcel and acreage basis) exceeds sixty-six percent.
- 2) *Miscellaneous Annexation Provisions.*
 - Cities may not subject property to annexation initiatives under any non-referendum, referendum process without obtaining written consent of the property owner. Such consent must be obtained between 30 and 60 days prior to a referendum or final action by the city. The acreage of consenting special districts, municipalities, the

county or the state may not count toward satisfaction of the percentage of property owner approval requirements.

- Cities are prohibited from subjecting any property to an annexation referendum for a period of seven years from the last date that such property was last subject to an annexation referendum, unless the property owner's written permission is obtained.
- Cities must provide individual notice by certified mail to all property owners within the proposed annexation area at least 60 days prior to the first public hearing. Such notice shall refer the recipient to a phone number or site on the internet where comprehensive information concerning the financial impact of the proposed annexation on an individual property can be obtained.

3) *Prohibition on Incentives.* Cities and Pinellas County are prohibited from offering to provide or providing incentives or inducements that do not serve an important public purpose to property owners in conjunction with an annexation proposal, except that expenditures in furtherance of the closure of enclaves are determined to be a public purpose.

6. Repeal of the "Dual Vote"

This is a procedural amendment. The Pinellas charter is the only one in Florida requiring a dual vote for adoption of charter amendments establishing countywide standards or policy. All other charters require a single countywide vote. The proposal would delete the dual vote policy from the charter. Note that amendments seeking to transfer assets or personnel from a city to the county will still be bound by the constitutional requirement for adoption by a dual vote.

7. Future Charter Review Commissions

The amendment makes several changes to future Charter Review Commissions, including: Adding a prohibition against elected officials and local government staff from serving on a CRC; adjusting the timing of the CRC so that future ballot questions will coincide with Presidential elections, when voter turnout is higher; requiring at least two public hearings after tentative

recommendations are adopted; and, increasing (from six to at least 12 months) the time allotted for a CRC to complete their work.

8. Authorization for Repeal of the Charter

This is a procedural amendment. The Pinellas Charter has no mechanism by which it may be repealed. While one would likely not wish to repeal the charter without simultaneously replacing it with a new document, the lack of authorization may jeopardize a measure to repeal and replace. The Attorney General has ruled in other counties that absent be specific language in the charter authorizing repeal, ballot measures seeking to repeal a charter are not valid. The amendment authorizes consideration by the voters of an amendment to repeal the charter at some point in the future.

9. Sale of County Park Lands

The measure would amend the charter to provide that the County Commission may not sell county-owned parks or preservation lands without a public referendum authorizing the same.

10. Other Recommendations and Resolutions

- 1) *Growth and Planning Information.* The recommendation of the CRC urges the County or a subcontractor to collect, analyze and distribute information indicative of growth in the County including data on zoning, building permits and certificates of occupancy. Such information would be prepared and distributed on a regular basis.
- 2) *SB 1608 and Related Legislative Measures.* If adopted, Senate Bill 1608 or other similar measures would require a “dual vote” for charter amendments on a statewide basis. Further, the legislation would nullify any existing charter provision, ordinance or Special Act relating to any countywide land use or annexation policy until the measure has been re-adopted by a dual vote. The Resolution of the CRC expresses its strong opposition to such legislative measures.

NEXT STEPS

The next meeting of the CRC is scheduled for April 24, 2006. The CRC may consider technical revisions to the pending proposals at that time. Before adopting final recommendations for revisions to the charter, the CRC must hold three public hearings. Final recommendations must be adopted by an affirmative vote of at least eight members and must be completed no later than June 30, 2006.