

BREVARD COUNTY CHARTER REVIEW COMMISSION

AGENDA

May 12, 2022

2725 Judge Fran Jamieson Way, 1st Floor, Building C Viera, FL 32940

Commission Room, 5:00 P.M.

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Approval of Minutes

E. Reports:

1. Chairman
2. CRC Staff Person
3. CRC Attorney/Other Members

F. Proposals

1. **Charter Cap- Public Hearing #2**

Public Comment

2. **Recall School Board Member -Public Hearing #2**

Public Comment

3. **Full Time County Commissioner-**

(Voted on 04-21-2022) Unanimous vote 14-0 to remove proposal from consideration

4. **Citizen Process- 2.9.1.0-**

(Voted on 04-21-2022) Vote 13-1 to remove proposal from consideration

5. **Repeal of Three Attorney Panel-Public Hearing # 2**

Public Comment

6. **Right to Clean Water – Public Hearing # 2**

Note** Request by Petitioner to have attorney at next meeting

Public Comment

7. **Repeal of Article 8 and Section 8.1 School Board-Public Hearing # 2**

Public Comment

8. **Amend Section 2.7 – Vacancies and Suspensions-Public Hearing # 2**

Public Comment

9. **Amend Section 2.4-Term of Office- Public Hearing #1**

Public Comment

10. **Amend Section 7.3.3-Supermajority Public Hearing # 1**

Public Comment

11. **Article 1-Creation, Powers, and Ordinances Public Hearing #1**

Public Comment

12. **Article 2-Legislative Branch- Public Hearing # 1**

Public Comment

13. **Article 3- Executive Branch-Public Hearing #1**

Public Comment

14. **Section 5.2- Recall- Public Hearing #1**

Public Comment

15. **Section 7.4 Charter Review-Public Hearing # 2**

Public Comment

16. **Non-Partisan Election-Public Hearing # 2**

Public Comment

17. **Amend Section 2.4 Term Limits-Public Hearing # 1**
Public Comment
18. **Amend Section 5.2 Recall- Public Hearing # 1**
Public Comment
19. **Amend Section 5.2 Recall-Scrivener's Error-Public Hearing # 1**
Public Comment
20. **Amend Article 7.4.1-Add subsection 3 – 3-Panel Attorney Process -Public Hearing # 1**
Public Comment
21. **Amend Article 8 by adding Section 8.2- County Wide Election Public School Superintendent - Public Hearing # 1**
Public Comment
22. **Revise Citizen Advisory Process-Public Hearing #1**
Public Comment
23. **Amend Article 8 Section 8.1-Addition of Two School Board Members -County Wide Election-Public Hearing # 1**
Public Comment
24. **Addition of Section 1.9 to Article 1- Establish Workforce Housing Trust Fund for Vulnerable Families-Public Hearing # 1**
Public Comment

G. Unfinished Business

1. Future Meeting Schedule

H. New Business

1. Mr. Blaise Trettis:

Motion for addition to the Rules of Procedure of the Brevard County Charter Review Commission New Rule 18 as follows:

“Rule 18. Writing of Ballot Caption, Ballot Summary/Ballot

Question. The attorney for the Commission shall write the Ballot Caption, the Ballot Summary/Ballot Question to be answered by the electors in the ballot for Charter amendment recommendations which are approved by a vote of ten or more members of the Commission.”

If this motion passes, current Rules 18 and 19 would be re-numbered 19 and 20 respectively.

I. Public Comment

J. Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify Melissa Brandt no later than 48 hours prior to the meeting at (321) 301-4438.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC DEVICES and CELL PHONES REMAIN OFF while the meeting is in session.

Pursuant to 286.0105, Florida Statutes, the County hereby advises the public that if a person decides to appeal any decision made by the Charter Review Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected persons may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the County for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

CHARTER REVIEW COMMISSION MEETING

Thursday, April 21, 2022

3:00 p.m.

Brevard County Government Center

2725 Judge Fran Jamieson Way, 1st Floor
Viera, Florida 32940

A. Call to Order

Mike Haridopolos: All right I would like to call to order the Brevard County Charter Review Commission meeting to start up. If you will all please rise for the Pledge of Allegiance.

B. Pledge of Allegiance

Mike Haridopolos: And Mr. Nye why don't you lead us in that, thank you.

I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one Nation, under God indivisible with Liberty and Justice for all.

Mike Haridopolos: All right Melissa if you could please call the roll, that would be great.

C. Roll Call:

Melissa Brandt:

Robin Fisher (District I) - Present
Kendall Moore (District I)-
Marcia Newell (District I)- Present
Mike Haridopolos (District II)- Present
Marie Rogerson (District II)- Present
Blaise Trettis (District II)- Present
Bob White (District III)- Present
Matt Nye (District III)- Present
Gabriel Jacobs-Kierstein (District III)- Present
Tom Jenkins (District IV)- Present
Cole Oliver (District IV)- Present
Sue Schmitt (District IV)- Present
Jordin Chandler (District V)- Present
Vic Luebker (District V)- Present
Dave Neuman (District V)-

Commissioner Moore and Commissioner Neuman present after roll call.

Staff Members Present- Melissa Brandt, Jim Liesenfelt, Assistant County Manager, Attorney Paul Gougelman

Melissa Brandt: -We have a quorum.

Mike Haridopolos: Thank you very much

D. Approval of Minutes from March 24, 2022 Meeting

Mike Haridopolos: First, let's get into the approval of minutes. Do I see an objection to approving the minutes? Seeing no objection, we will mark those as being accepted. What I would like to do if we could, I know the pressing proposal before us today is item G which is unfinished business. If we could just make a couple of minutes to go through the reports, and before we get to proposals today, we will get into the unfinished business which is found in item G. Of course, we are going to take up the motion to change from ten (10) in rule seventeen to go to eight (8). We also have a motion to delete rule sixteen from the rules of procedure as well. So, we will take those up before we go down to section F which is under proposals to hear the Charter Cap, et all that follows. So, first thing I would like to do is that we have got some reports from staff as far as what is going on. We have had a little bit of an issue as far as public hearings are concerned. That was brought to my attention today. So, why don't I turn it over to the staff first and we will kind of go through a few of those issues, and anyone that has any questions for the staff before we progress, just please let us know. Jim, do you want to go ahead?

E. Reports:

1. Chairman
2. CRC Staff Person

Jim Liesenfelt: All right, thank you Mr. Chair. Members of the Commission, as we were going through checking a couple of other items with our legal ads, we have discovered that in the newspaper, the two previous meetings were not advertised as a public hearing. We spoke with Paul, and Paul's suggestion is, or recommendation is those were not official public hearings. We had put them on the agenda's, we had public speaking, but they were not advertised, that was our mistake. So, today's meeting is advertised as a public hearing through the legal notices. So are kind of leaving it up to your guy's decision on the Charter in so many words says that you have to have three public hearings, ten days apart before you transmit any recommendations onto the board. So, based off of that, today would be your first public hearing. Official public hearing

Mike Haridopolos: All right, questions for the staff on that issue?

Tom Jenkins: I do

Mike Haridopolos: Tom?

Tom Jenkins: If I go by what prior Charter Review Commission's have done and what I read in the Charter, it says that you require three public hearings only for those items being recommended for submittal to the voters. If it doesn't get through this Charter Review Commission, it doesn't require three public hearings. So, in the past what we have done we have heard, discussed, and voted on any of the amendments, then we called three public hearings at the end of the process to determine whether they would go forward or not.

Mike Haridopolos: Okay, other comments? Oh, okay Vic go.

Vic Luebker: So, Mr. Liesenfelt for us to go forward from here, would this be the first meeting for everything now? Would it be basically a clock reset?

Jim Liesenfelt: Well that would be up to the Commission to decide, but this is the first properly advertised public hearing that we have. All right, I also think I would like to defer to the Chair since he's got vast parliamentary experience in this area, so I would like to hear his thoughts.

Mike Haridopolos: Sure, let me hear everyone else's first and I will definitely give you my thoughts, I promise. (laughter). I don't mind giving my opinion. Other opinions before we, Blaise?

Blaise Trettis: Even though there has been public hearings really in reality, I think the public should be heard before our votes on, if the suggestion is that we vote and then have public hearings, that does not seem correct to me. I think we should just start from scratch.

Tom Jenkins: Can I respond?

Mike Haridopolos: Tom, of course.

Tom Jenkins: I don't think anyone is suggesting the public would not have an opportunity to provide as much input as they choose to provide, it simply says, if you read the Charter, the Charter says those items being recommended for submittal to the ballot shall have three public hearings. That is what the Charter says.

Mike Haridopolos: Ms. Rogerson

Marie Rogerson: I would second what Blaise said. To me, I agree by the letter of the law it is totally correct, but if it were me, if I were a member of the public having seen how we all feel, and the discussion process, and then to have the public input would bother me. So, I would prefer that we have it as we go.

Mike Haridopolos: Other questions or comments?

Bob White: Just one, Mr. Chairman. I am inclined to agree. Correct me if I am wrong, to Mr. Jenkins. If we debate it and discuss it to the point where we are ready to make the recommendation, and then we have three public hearings, isn't that going to prolong the process? Isn't that going to add a considerable length of time to the whole process?

Tom Jenkins: Well I am really just repeating what the Charter says. And again, I am not saying that the public cannot speak at every meeting, the public

Bob White: Right

Tom Jenkins: the public can speak on each and every item, but the public does not know what we are going to vote for. Once we decide what does and does not go on the ballot, then they have the opportunity to come and speak specifically on those items that are going forward. Not the ones that are not going forward.

Bob White: So, it would prolong the proceedings?

Tom Jenkins: It could.

Bob White: Yeah, okay

Mike Haridopolos: Other comments?

Vic Luebker: Can I follow up on that? So, we can still, the public would still have three bites at the apple?

Mike Haridopolos: Of course, in every scenario, but I would say this if you are asking my opinion: We are going to be here, anyway right? And so, in an abundance of caution why don't we just count this as meeting number one. I think we all know how we are going to vote on most of these items anyway. The bigger question might be do we need eight votes or ten? Maybe that is the bigger question for today, let alone in the future. But I think in an abundance of caution, we have enough scheduled meetings. I don't think we will see an avalanche of new proposals. So, in worst case scenario, I think we are up to number nine? I think for number of proposals, I think a few of them might be clunkers anyway that might not get the support right off the bat. That said, I think we are going to be here, and what I think we might want to do today is make sure everyone knows the rules. That means do you need eight votes or ten? We will decide that today. And then there is another adjustment in the rules. And then there will be two more public meetings, and I would imagine, so two meetings from now we will have that first vote on just about all of these items if we want to. I would like to stay away from as Commissioner Moore talked about the vote-a-rama, so maybe we decide how we want to break that up. I think we will also see as we go through each of these proposals at each of the next two meetings following this one, which have viability. I think some of these based on the comments that were made from our last meeting, some of them might not have that threshold, whether it be eight or ten. So, if it is okay with the members of the Commission, I think we are kind of in agreement here that we wait, in an abundance of caution, we wait for those votes to take place two meetings from now, so that the full public hearing could be had, and I think as we are getting closer to the end, just like in an election, people kind of are paying more attention. So, I am sure by next meeting we will have this room filled, and everyone can have their say. But it is nice to see some familiar faces here too. So, if that is okay with everyone. So, for a motion Mr. Nye?

Matt Nye: I move that we re-set the clock to make this the first meeting in terms of public hearing.

Mike Haridopolos: Without objection, show that adopted. Thanks so much for everyone working on that proposal, I am glad you caught that now and not later.

Jim Liesenfelt: Sorry for that.

Mike Haridopolos: Also, as a public announcement, May 12th is the last day. If you want to get a proposal in, that is our next meeting, that is the last day you can get a new proposal in order to meet this time crunch that we are putting on there. The good news is that you are not that far behind the people who are in line already. So, any other comments? All right, let's move to the next issue. I am sorry, Jim?

Jim Liesenfelt: I am sorry Mr. Chair, I do have one more, I am asking if I can get a little clarification. Last meeting, the Commission asked for the cost of an election district versus whole. I spoke to the Supervisor of the Election office, and if I could just get a little more detail on what you all are looking at. It was explained that you all could have a referendum which could be a mail in, or by vote, so I didn't have the full information to have everything for the Supervisor. I didn't want to take a supposition, so I was at least asking bring it back. If you still want the cost of an election, exactly kind of what you are looking for, and that would help us to get you the right number.

Mike Haridopolos: I know a lot of people have a vested interest in a very important issue. Questions for the staff as far as what direction you would like to follow as far as giving that information to the Supervisor of Elections, so they can give us a clear idea of how much that election would cost. Anybody have any specific question or direction that you would like to give, or kind of discuss this.

Blaise Trettis: Yes, my direction would be that it is a regular in person election. That cost.

Mike Haridopolos: And then to clarify further, by district and county wide correct?

Blaise Trettis: Both

Jim Liesenfelt: Thank you

Mike Haridopolos: Anyone object to that? I think that is a very smart proposal. I think people are going to want a typical election, and so we will break it down by the district, and I think given the interest in this, a lot of people talked about exclusively for school board. This could at some point be other positions. But I guess you are going to have to break it down, one by school board, and then the five members, and then also County wide. Any other clarifications on that issue? All right Okay CRC staff also has the issue on the cost of the three- member attorney review panel.

a. Three Panel Review Costs

Jim Liesenfelt: Yes, Mr. Chair you all asked for what the cost was from the last time. 2016 the Commission did not have any recommendations to pass onto the board, so there was not three panel. So, we went back to 2010 and the information

is in there. The charges went from \$165 per hour to \$ 225 and then we put the invoices behind so you could see the various time that the three various attorney's spent on the items. There were four items that they were reviewing at the time.

Mike Haridopolos: Okay, any questions on that item about the cost? Okay seeing none, let's go to the second section, the history of the three- member panel.

b. Three Panel Review History

Jim Liesenfelt: And that, we were asked on how that came about, that memo is in there. What you have is the two resolutions by the Board of County Commissioners. I don't know how to put it best, it was done in between Charter Review Commissions. The County Commissioners can put items up to vote for the Charter and that is what happened on both of those. One was done for when citizens submit petitions, and then there was another one when Charter Review submits petitions. So that is how the attorney panel came into being.

Mike Haridopolos: Okay, any questions on that? Blaise, do you have any questions on that?

Blaise Trettis: No Sir.

Mike Haridopolos: Okay, that information is there for your reading pleasure, and again as we move forward, feel free to comment on that in future meetings. All right next, let's get into kind of the more legal issues on the time for recall. If you want to get in there Mr. Gougelman.

3. CRC Attorney

a. Time for Recall

Paul Gougelman: Sure Mr. Chairman, I am not going to be labor this, you all have my memo. Commissioner Oliver had asked for what the timeline is for recall elections. I have tried to lay that out as best I can by following the Statute. Unfortunately, the Supervisor of Elections Office wouldn't even help because since Ms. Scott has been our Supervisor of Elections, she advises that they have never had a recall election, so which is interesting. I will be happy to answer any questions on that.

Mike Haridopolos: Other questions? Blaise.

Blaise Trettis: Another comment. By my math, if you add up all the days, it is between a hundred ninety- five and two hundred twenty- five days. Short answer is two hundred twenty- five plus days, my math is one ninety -five to two twenty- five, and the thirty- day difference is because of the election within thirty to sixty days at the end.

Mike Haridopolos: Mr. Gougelman do you see it the same way?

Paul Gougelman: Sure.

Mike Haridopolos: Okay

b. Can the County Commissioners re-word a proposal by the CRC

Paul Gougelman: The next memo is whether or not the County Commission can re-word a proposal by the Charter Review Commission. The answer that I find is that I don't believe that they can. I lay out what the reasoning for that is based on, not only the wording of the Charter, but how these proposals, after they leave here, they have to go to the three- member attorney review panel, and then they go to the Commission, the County Commission with the idea of being placed on the ballot.

Mike Haridopolos: Blaise.

Blaise Trettis: You know my concern is this: with my proposals, as with bills in the legislature and Constitutional Amendments, additional words are underlined, deleted words are stricken through. So, that is what my proposals are, I think that is correct. My concern is that many of these proposals are really not in proposal form like that. They are ideas I would say, which are general ideas. And if any one of those generally worded proposals were to be passed by this Commission, then someone is going to have to come up with the language that goes before the voters, and I will just say that I would not vote for any proposal that is a general idea for that reason. It needs to be precise. When bills go to the legislature, they are just as I said. Same when voters get to vote on Constitutional Amendment, just as I said. Underlines and deletions to the existing wording, so I want to point that out, and that is my recommendation to the board would be to do the same. If there is a proposal that adds to, changes the Charter, that if it is not in the form of underline for additions and stricken through for deletions, that is a good reason to vote against it.

Paul Gougelman: Mr. Chairman, I would absolutely concur with that. In doing research on some of these questions in the past, I found that underlining and strike through, which is pretty standard for this type of thing, have not been used in the past for whatever reason, and as a result it is somewhat unclear what language is being changed, how it is being changed, what the context of it is. I think it is important. It is part of figuring out if anybody needs to interpret at a later time, what's been done, that is how you figure out at a later time what the legislative intent is. I concur with Mr. Trettis. I think he is right on, and I think the other question that he started to broach, is the wording on the ballot question. In the past, I don't know how this has been done by this County, but somebody needs to construct that ballot language. There are fairly specific rules, that are statutory rules for how you construct that ballot language, but there is still an art to it, if you will.

Mike Haridopolos: Blaise?

Blaise Trettis: Are you talking, Mr. Gougelman about the summary language?

Paul Gougelman: The ballot summary, yes.

Blaise Trettis: All I can say is I guess I will file amendments, since there is now more time to these proposals, on mine that will include summary ballot language. Which I don't see why this Commission should not be able to vote on it. The concern with this Commission voting on it identically how it is going to show up on the ballot, is if you don't do that you are letting someone else write it, then it is well that is not what we voted for, so I think that is why it is of utmost importance.

Paul Gougelman: The ballot language question is something that applies to things such as constitutional, state constitutional amendments, and there have been a number of cases where proposals have been submitted to amend the state constitution, and based on the ballot language, the Florida Supreme Court has basically invalidated, invalidated those issues because as the Court says, misleading to the voters. So, there is definitely an art to drafting those ballot questions, and of course they cannot be over seventy-five words by Statute.

Mike Haridopolos: Mr. Trettis?

Blaise Trettis: I would like to point out in reading, I think it was in Mr. Gougelman's memorandum on the three- attorney panel, I believe that attached was the ballot language, and it was interesting that three attorneys were not mentioned. In my recollection it said an independent review panel, but it didn't tell the voters it would be a three-attorney panel which I thought was terribly wrong.

Mike Haridopolos: Other comments? Mr. White.

Bob White: Well, that was going to be my question. Was going to be who exactly is going to do that for us. In Tallahassee we have bill drafting for both chambers to take care of that issue. In my knowledge we don't have an office of bill drafting, so I am wondering who exactly is going to be tasked with that responsibility?

Mike Haridopolos: Well, I think I would probably refer to Mr. Gougelman and his team, and of course we would review that in subsequent meetings and vote in essence to make sure that is the language we want and have us work together in the committee process just like we would in the legislature to get that language we are all comfortable with, seventy-five words or less. I think Mr. Trettis' point is well taken, where in our State you underline and delete and it's clear to the voter in the legislature, let alone people across the state of what's been changed. Unfortunately, Washington doesn't do that, but that is another story.

Paul Gougelman: Right

Mike Haridopolos: I know Congressman Posey is actually working on that. But with that said, I think it is a no brainer, and I think that we have more time now in a final vote in these measures, that as you get a sense of which ones will make it to the ballot that be thinking about the ballot language. And maybe we can even devote more time at future meetings to make sure that our intent is clear.

Bob White: Okay

Mike Haridopolos: I think that would be helpful for everyone that should make the ballot.

Paul Gougelman: Then Mr. Chairman if we can move on, I am on three C, who can contest the finding

Mike Haridopolos: One second, I think, Ms. Schmitt do you have a question?

Sue Schmitt: Yes, I had a question for Mr. Gougelman.

Paul Gougelman: I am sorry.

Sue Schmitt: As far as, what you responded to the question and that was a far as re-wording from the Commission. It is my understanding according to the Charter, that no matter what the County Commission gets, it can't re-word it, but what they can do is not determine, or decide to send it on. Is that correct?

Paul Gougelman: The short answer is somewhat equivocating, yes. And the reason is, is because the concept of not being able to re-word and at the same time being able to keep something off of the ballot, if it is determined to be unconstitutional, or inconsistent with Florida law. That comes from an opinion of the Brevard Circuit Court back in the year 2000. And in that particular case, it wasn't a recommendation from the Charter Review Commission, it was actually a referendum that had been submitted to the County. The County Commissioners were looking at re-wording it, trying to clarify it, and anyway the case went to the Circuit Court and they said no, you can't re-word it. However, if it is determined to be unconstitutional under the Florida Constitution, or inconsistent with Florida law, you can elect not to put it on the ballot and if you follow that concept, it probably holds true for recommendations that come from the Charter Review Commission. And I will tell you that is where we get to the issue of the three-attorney review panel and as Mr. Trettis has noted, it is a panel that seemingly has a lot of power.

Mike Haridopolos: Okay so we are on that item you brought up that three C, who may contest the finding of the three-man panel, please go ahead.

c. Who may contest 3 Panel Attorney Finding

Paul Gougelman: Yea, and the short answer to it is obviously the County Commission could contest it. It is likely that the Charter Review Commission would be able to contest it, except for a couple of problems: Number one is, when this group was set up it has a limited duration, and it also has to have funding to go ahead for undertaking any sort of law suit. That could throw some road blocks in the way. With regard to individuals such as somebody that has actually proposed a proposal here, not a member of the Commission, but member of the public, that person may have standing which is in other words, the right to go forward with a law suit. Whether or not a court would say whether or not that is sufficient, I think is somewhat open to question, but you could make a good argument for that. And then, last but not least, if it is some general member of the public, again to have standing, a general member of the public couldn't just go out and file a law suit.

They would probably have to have what is known as a special injury, which means that they are affected to a much higher degree, or a much different way than the public at large. So, confusing, but I hope it answers your question.

Mike Haridopolos: So, let me get into that for a second. Obviously, the group that would have standing would be the County Commission?

Paul Gougelman: Yes

Mike Haridopolos: and so, if one of our County Commissioners chose to challenge that three- member panel then they would have standing, and of course a budget - dollars to make that request. Would that be an option?

Paul Gougelman: It is an option, there is also another approach to that they can follow if they elect to, and this gets into the politics of decision making, and that is of course the County Commission has the ability to propose its own amendment, and so you could actually have a CRC proposal, followed by a County Commission proposal, and I haven't researched it, but under some rule of law that I seem to recall from some years ago, if the County Commissions proposal comes second in time that would be the one that would probably prevail in the event of any inconsistency.

Mike Haridopolos: And on that same notion, that when the County Commission proposes one of these Charter Amendments, do they have a three- member attorney panel overlooking them?

Paul Gougelman: Yes.

Mike Haridopolos: Okay. Mr. Trettis do you have a question?

Blaise Trettis: Well a comment and then a question. Is it true Mr. Gougelman that even though by the Charter wording our work ends at the vote for proposals, the contract that Brevard County has signed for us, for you to do your work does not have that limitation so therefore there is a very strong argument that we could use your services to make that challenge.

Paul Gougelman: Theoretically, but again it would have to be funded and as anything in the legislative arena, he who has the gold makes the rules.

Mike Haridopolos: Or, you could do it pro-bono. (laughter)

Paul Gougelman: Thank you, next item. (laughter)

Mike Haridopolos: Got it, got it. Okay. The last part is control of School Board agenda items.

d. Control of School Board Agenda Items

Paul Gougelman: Yes, this was a question by Commissioner Neuman. I tried to summarize some of the Statutes that are pretty specific on how school boards are supposed to operate, and my conclusion is that we probably couldn't get into that kind of minutia.

Mike Haridopolos: We have completed all of the reports. Are there any other questions for staff before we get into section G dealing with unfinished business?

Vic Luebker: Mr. Chair, I do.

Mike Haridopolos: Okay, go ahead.

Vic Luebker: This is actually a question for Paul. Going forward it is kind of a homework assignment if you will. Since we are on a deadline for any new potential proposals. Can I ask you to look into the Charter section 5.2 as it relates to recall? And then specifically what it references members that can be recalled in section 4.2. There is a lot of information flowing around out there right now and

Paul Gougelman: I can give you all a summary on that. I can write you all a memo on that, kind of summarizes so everybody knows what we are talking about. Otherwise it is going to sound kind of like Greek. Where you are running into a problem is that somewhere along the line around 1998 or 2000 or whatever, we had another one of these amendments go through that didn't have the strike through and underscore, and wasn't complete. And as a result, I think it was section 4.2 of the Charter, should have gotten changed, but it didn't. It didn't get change. So, it was an erroneous reference. But I will be happy to write that to you.

Vic Luebker: So, you are saying that the disconnect is that what 5.2 is saying that those individuals identified in 4.2. For those of you that don't know, we are talking about our Constitutional officers are subject to recall or not.

Paul Gougelman: It means County Commissioners is what it means. If you research it all the way back in time, it means the County Commissioners are subject, but to recall. But, somewhere along the line when they were amending sections, the number, it got messed up.

Vic Luebker: So, to clarify that, a proposal would clarify that, or add them to a potential list of individuals subject to recall?

Paul Gougelman: Clarifying it, might be the best approach. There is one other thing, if I can back track Mr. Chairman. I had forgotten. When we were talking about who can challenge the Charter or can the County Commission re-write a proposal? I think it is important to note, that in the Charter, with regard to the three-member attorney review panel, it talks about if the panel says something is constitutional or consistent with general law then it is supposed to go on the ballot. But what the Charter does not say, is if that panel rules that it is not constitutional, or not consistent with general law, what happens. That is one thing in the Charter that is completely unclear. If you have a chance, go back and look at my memo again. One of those two memos is where it points out that that could be somewhat problematic. Again, we have had time to amend this Charter several times, not this body but Charter Review Commissions of the past. Now what is happening is we are just now starting to have a little word collision.

Vic Luebker: Are you okay with maybe a May 2nd deadline with this, so that maybe I know how to move forward with this?

Paul Gougelman: Sure, yes.

Vic Luebker: Thank you, I appreciate that.

Tom Jenkins: Mr. Chairman, I recall somebody, maybe the legislature, I don't remember who, pass something in the last year or two that said the Sheriff, Supervisor of Elections etc. were constitutional officers in Charter counties. That is not in here is it?

Paul Gougelman: Mr. Chairman, that was adopted, I think by the voters in 2018 and there has been over the years, with these Charters, a number of stake holders and a number of people who have interest in these Charters, sometimes competing with what a Charter Commission may write in the Charter. The people that are the most affected by this are your so-called Constitutional Officers, the Property Appraiser, the Supervisor of Elections, Clerk of the Court, and Tax Collector. The reason why they are most affected is because some Charters have either decided to try to eliminate their position. For example, in the Broward County Charter, the position of Tax Collector as an elected office was done away with, and the person now is called the Revenue Collector who is appointed by the County Administrator, and it is not even an elected office. In other cases, there have been some Charters that have decided to move the responsibilities around from one constitutional officer to another constitutional officer probably under the idea of making things more efficient, but Constitutional Officers many times in this State, take that personally as far as being able to perform their job properly and therefore they have a strong lobby in that regard. I will tell you that when the original Charter here was drafted, the then Property Appraiser was very active and very vocal about what should or should not be in the Charter. That is just the way it is, it is the nature of how things are set up.

Tom Jenkins: Mr. Chairman, I also think one of the intentions of that being adopted deals with the budgets of the constitutional officers. They are now protected by State regulations and State process as opposed to any kind of local process. I think that was one of the biggest things they were looking for was to be independent of the County Commission to the extent they could be.

Vic Luebker: Mr. Chair, I want to be clear on this too. Paul, so you understand my thinking. I am strictly looking at this from the perspective of State Statute for recall with regards to malfeasance, not showing up at doing your job, a felony. As a Brevard County Constitutional Officer, would you be subject to the same rules based on what I said about 5.2 relevant to 4.2. So as far as funding and all that Tom, I totally agree that is State level. I am talking about the process of recall related to how malfeasance and those things work. How that sausage is made.

Paul Gougelman: We will try to get something to you perhaps in the next week or so.

Vic Luebker: All right, thank you.

Mike Haridopolos: Thank you, other comments? All right let's move over to section G, unfinished business and we are going to look at one proposal at a time. The question on the table for us is the first one by Mr. Trettis which is the motion to change from ten (10) in rule seventeen Charter Amendments, to eight (8). Before we get into voting, I think we are on debate at this point, and for those people that would like to debate at this point, just raise your hand and we will go through there before we, I am not going to ask for the Aye's and Nay's, I am going to ask for a roll call vote just so you are all aware of it. So, why don't we start in debate, whoever would like to get started, whoever would like to speak, go ahead.

Tom Jenkins: I have a question.

Mike Haridopolos: Sure, go ahead.

Tom Jenkins: I received an email, I suspect everyone else did from a gentleman named Dale Davis, I believe it was. Did everybody else get that email? And in that email, he was saying that Robert's Rules of Order suggests that it takes a two-thirds vote to amend operating rules and I just wanted to ask Mr. Gougelman if that

Paul Gougelman: I think that is correct, that is pretty much the standard. Roberts Rules of Order would say two-thirds. However, your rules specifically, which supersede Roberts, your rules specifically say that you can amend it with the affirmative vote of eight members. So, you have a different standard, and in my view that is probably legal.

Mike Haridopolos: I think in effect of that Mr. Jenkins, whoever this vote goes Mr. Jenkins, it will probably decide which goes. I mean you can make a motion right now to say I want to make it nine or eleven or twelve to see if you can get eight votes, right? So, we will go from there. In debate, anyone? Okay. Mr. Trettis, in debate.

Blaise Trettis: I will just repeat what I said last time briefly which is Brevard County would be in the minority to require this Supermajority out of the nineteen Charter Counties in Florida, I counted four that have a two-thirds vote requirement to pass recommendations over, we are in the minority. Also, the point is if only eight is a quorum, and you could have a quorum of eight and not possibly pass any proposal because there wouldn't be the required ten to pass any proposal. The third thing I think is that majority should rule, and also this is just to get the proposal to the voter, and the voters have the ultimate decision. So, for those reasons I submit that rule seventeen should be changed from ten (10) to eight (8) votes required to pass a Charter proposal.

Mike Haridopolos: Okay, and before we get there, I think we have a Mr. Stan Johnston here who would like to come testify. Mr. Johnston we will give you a couple of minutes to present.

Cole Oliver: Mr. Chair, I am going to jump in as well.

Mike Haridopolos: Yea, I am going to keep the thing going after this. Go ahead Sir, please.

Stan Johnston: My name is Stan Johnston, I live in Titusville, 860 Poinsettia Avenue. I am a registered professional engineer. I came today and I heard that the meetings were not announced, it is out of the Sunshine, and I don't stand how in the world you could be starting with G when there is F and so forth. When you violate the Sunshine Law, all those meetings that you had, all those three meetings that you had are null and void. You can check with Mr. Gougelman on that. They are null and void, so why in the world are you starting with G? When you should be doing the other agenda items. So, it appears to me that you are out of order. And what I want, I am giving Mr. Gougelman, this is my name address and phone number. I want a letter from your attorney. I want a letter saying those previous meetings you had, all the business you did was out of law. It was out of the Sunshine. I want you to understand this, when you are out of the Sunshine, you are illegal. All of those meetings that you had were illegal. They are null and void and everything has to be re-done. Now, I am going to ask you to ask him to confirm that. If he doesn't you are in trouble. You are probably going to get sued, so stand up and respond please.

Mike Haridopolos: Thank you Mr. Johnston, appreciate that. With that in mind, I think you might have missed an earlier discussion, we basically agree with ya, and this is meeting number one for all of the proposals and hey, you win, congratulations!

Stan Johnston: Thank you

Mike Haridopolos: Yes, thank you

Stan Johnston: You are not going in order though.

Mike Haridopolos: Okay, well that is the right of the Chair. All right so, Mr. Luebker

Vic Luebker: I am going to play the devil's advocate here. We had a reason why we had the rules discussion very early on in this process. I am not a fan of changing the rules mid-stream because of public perception and how that works, so from my perspective if you did this, and you could probably tell me better, but if you did this in Tallahassee mid-way through the legislative process, I think you would see a lot of people screaming bloody murder about maybe, I am not saying we are doing that here, vote counting and all that. I am trying to line stuff up. I think the rule is the rule and what we agreed to is what we agreed to, and that is where I am at.

Mike Haridopolos: Other people

Kendall Moore: Mr. Chairman I was just going to, you know (inaudible) for the sake of it, I wasn't happy that we changed it from ten to eight, if we went back and started over again on everything, I wouldn't be very upset.

Mike Haridopolos: Okay, great.

Blaise Trettis: Mr. Chairman, just a comment. Any other opportunities to speak on it. I don't think we have a card on that. All right, I am before Mr. Trettis closes, I think

everyone heard my comments from before. We are talking about in essence the Constitution of the County. There are some issues that I really want to get passed and I would love to see eight. And there are ones that I don't want to see passed, and I would love to have the ten. So, I am just going to go from my own history and as I think I mentioned to Mr. Moore last time. I think a minimum of nine. If I have a choice between eight and ten, I am going to pick ten because I think this is a very serious document and kind of be aware of what you pass because you might be in the right team this year, and the wrong team four years from now. So, I would like to keep it at ten, and the proposals we like, I will have strong support sending out to the public. The ones that maybe have eight or nine votes will be a little different, but I am going to stick with the ten, because as Mr. Luebker said, had we kind of seen this change coming along, it would be different. I believe we are a Republic, not just a simple Democracy. I like the idea when we set kind of guidelines when we started this process, regardless of the last concerns that were brought up. I think ten is a good number. I know for the first one on the agenda I am going to vote yes. I will telegraph my vote on the Charter Cap issue. I might win or lose but I want to be consistent with what I did in my past life, and I think the sixty percent threshold is a minimum in my book. And whoever you all choose to vote, I will of course back that standing whether it be eight or ten.

Bob White: Mr. Chairman.

Mike Haridopolos: Mr. White

Bob White: Yea, I was going to stay quiet and let the vote be taken, but I am just going to say that I think a majority is enough because we are passing it onto the public, and they are the ultimate decider, not us. So, and the idea that the public is going to be swayed one way or the other, because ten of us voted for us versus eight of us voting for it, I don't think that holds any water. I don't think they are going to even know that was the case quite frankly. So, I am all in favor of them saying okay this is coming to me from the Charter Review Commission, and they have debated it. That is all, I think they really care about, when they see it on the ballot in front of them. So, I am all for getting as many of these proposals to the public as possible, and as far as I am concerned eight is great.

Mike Haridopolos: Okay, thanks Bob. Mr. Jenkins.

Tom Jenkins: Are you open to motions?

Mike Haridopolos: Of course.

Tom Jenkins: I move that we leave the Charter language as it is.

Sue Schmitt: I will second that.

Kendall Moore: Just as a point of order, I see Blaise about to come out of his seat down there. (laughter). I think there is actually, uh everybody is really clear where I am on this, but I think there is a motion actually on the table that was tabled from the prior meeting so there is a living motion from Mr. Trettis. Mr. Trettis, you know I disagree with you, but procedurally on this one, you are right.

Mike Haridopolos: That is why I said, regardless of how you vote today, it is going to be a ten or eight. It is going to be a jump ball. The vote is going to be the same, I think. Whether you go either direction. That said, anybody else besides the sponsor of the idea, you will go last Mr. Trettis, don't worry. Anyone else? Robin

Robin Fisher: I am at ten so

Mike Haridopolos: Mr. Trettis you are welcome to close on your idea.

Blaise Trettis: Thank you. Regarding the argument that it is an attempt of change of rules while we are in progress, my recollection is that the vote by this commission on rules, or amendments to rules was either the first or second meeting. And there has been, there was really no time to consider, at that point in time, you know the impact of these matters, and we hadn't looked at the Charter in depth to see what needs to be changed and what doesn't need to be changed, so you know it was way too early on in the process to use that as a strike against making any change later. Either the first or second vote. And secondly regarding the importance of the Charter, yea it is important, but it is also important to remember that serious problems with the Charter shouldn't have such a high hurdle to pass to be changed. What I am referring to unparticular is Article Eight, School Board of Brevard County. Florida Statutes do not provide any Charter Review Commission authority to insert the creation of single residential districts into a County Charter. By State law it can only happen by two ways: A vote of the School Board that goes to the public in a vote, or by a petition of the people that goes to a vote. So, what we have in Article Eight, I submit is an unlawful Article Eight, School Board District in the Charter. And it shouldn't take ten votes to remove what I submit is an unlawful part of the Charter. And for that reason, you shouldn't have such a high burden of ten votes. That's all, thank you.

Sue Schmitt: Mr. Chairman?

Mike Haridopolos: Ms. Schmitt.

Sue Schmitt: I would recommend that we have a roll call vote please.

Mike Haridopolos: Yea, and let me just make sure everyone understands too. I think Blaise, or Mr. Trettis brought up a good point. If the County Commission saw a serious flaw within the Charter they have the ability to place it on the ballot as well, is that correct Mr. Gougelman?

Paul Gougelman: They can always sponsor their own amendment without even going through the CRC.

Mike Haridopolos: Okay, thank you. All right what we are going to do is a roll call vote, and all those in favor of Mr. Trettis's to go from ten to eight, vote yes. All of those who are opposed to it, vote no.

Sue Schmitt: You are going to go by name, by district?

Mike Haridopolos: I don't care the order, I am just saying make sure if you are for Mr. Trettis's idea of going from ten to eight, vote yes. If you are against the idea of going from

ten to eight, you vote no. We will just go with whatever order you have, I guess whatever you have in front of you, I don't care.

Roll Call Vote- Blaise Trettis: Motion to change "ten (10)" in Rule 17. Charter Amendments to "eight (8)".

Roll Call Vote:

Melissa Brandt:

Robin Fisher (District I) - No
Kendall Moore (District I)- No
Marcia Newell (District I)- No
Mike Haridopolos (District II)- No
Marie Rogerson (District II)- No
Blaise Trettis (District II)- Yes
Bob White (District III)- Yes
Matt Nye (District III)- Yes
Gabriel Jacobs-Kierstein (District III)- No
Tom Jenkins (District IV)- No
Cole Oliver (District IV)- No
Sue Schmitt (District IV)- No
Jordin Chandler (District V)- No
Vic Luebker (District V)- No
Dave Neuman (District V)- Yes

Mike Haridopolos: I have it at 11-4. All right by your vote, we are going to leave it at ten and not move to eight. All right the next motion is also by Mr. Trettis it is motion to delete from Rule sixteen of the Rules of Procedure:

Motion to delete from Rule 16 of the Rules of Procedure Brevard County Charter Review Commission the words with the following strike through:

"Rule 16. Rule Amendments: These rules and policies shall be the by-laws of the Commission and may be amended by an affirmative vote of eight (8) of the members of the Commission ~~with at least one member appointed by each Commissioner present.~~"

Mike Haridopolos: Mr. Trettis did you want to proceed with this or not?

Blaise Trettis: Yes Sir.

Mike Haridopolos: Okay, go ahead

Blaise Trettis: The motion is made because there shouldn't be a residence requirement for passage of votes. As a matter of fact, I think at that first or second meeting when the Rules of Procedure were changed, we voted to eliminate residence requirements by district in the rules. But this was left in, probably an oversight. And for the second reason is that, it really makes no sense to require the presence of a Commissioner from each district. That would mean for district one for example, we need someone there who votes

no. Only one person from district one is here and they let's say they vote no. No votes don't matter. Only yes votes can pass a matter. So, no votes don't matter. So, logically it makes no sense to require that a district have a person there to vote no. If they decide to vote no. So, logically it makes no sense, and we have already eliminated the residence requirements in other parts of the procedural rules where they existed, so this is just consistent with what we have already done. That's all, thank you.

Mike Haridopolos: Thank you. Questions for the sponsor? Debate on the issue? Mr. Luebker.

Vic Luebker: So, would you, if you did this motion would you change it from eight to ten based on the previous vote? So, it would take ten from where ever among us?

Blaise Trettis: I am not changing that.

Vic Luebker: How would that work?

Blaise Trettis: It is eight now, I am not changing that from eight to ten.

Vic Luebker: For a quorum, but for a vote, or am I misunderstanding?

Blaise Trettis: It only takes eight votes to change the procedural rules, and that remains under my motion.

Mike Haridopolos: Then clarify then how you do it that way Mr. Trettis? Because we just had the vote on the ten. You are talking about the final vote, correct?

Blaise Trettis: No, these are for the rules and policies that rule sixteen applies to. It was changed from ten to eight at our first or second meeting, that passed. My motion from ten to eight passed, so that is what we have now, and now I only seek to eliminate this residence requirement for the reasons I have already said.

Mike Haridopolos: And the reason I am asking you is I think we know where the vote totals are, it was eleven to four votes, and I would be open, not sure about the other members, to eliminate that idea. I like the idea that we are one County. I think you might even find support here from folks you don't have to have a yes vote from all five of the quote Commission appointees. So, maybe you want to amend that and say in the final passage or what have you don't have to have each appointee from each of the five to move forward. You understand what I am saying?

Blaise Trettis: That is what my motion does, exactly what it does.

Mike Haridopolos: But you are saying right now, you are dealing with the internal rules, I am talking about the final vote. When the final vote. Is there any requirement that everyone of the persons from the five districts vote yes in the final vote Mr. Gougelman?

Paul Gougelman: No

Mike Haridopolos: So, do you really want this rule, since we are kind of on the way or not?

Blaise Trettis: I want my motion to be voted on.

Mike Haridopolos: Okay, sure all right. Any other questions?

Kendall Moore: Mr. Chairman, I think I brought this up before when we were talking about the prior issue, yes, we are one County but there is a significant amount of geographic diversity where issues that exist in Titusville may not exist in Palm Bay, and any given amendment to this Charter, may not equally impact every geographic area of this County. I would argue to you it is not split by three, it is split by six: North, Central, South, Mainland, Beachside, Barrier Island. All very distinctively different in a variety of ways, and I think that what this intends to do is to make sure that someone from that geographic area was here and present. I lodged my concern when we changed it previously, and have the same concern here, and I would vote no on this motion.

Mike Haridopolos: All right, others? Mr. Neuman.

Dave Neuman: Just some clarifying questions, I guess I will ask Mr. Gougelman just so I want to make sure that I am tracking, I guess properly, and for the folks at home too because it seems very minutia. So, my understanding of rule sixteen is that you need to have one Commissioner from each district to vote on a rule's change? That is what he is referring to correct?

Paul Gougelman: I think so, yes

Dave Neuman: Okay so when it comes to an amendment, do we need one Commissioner from each district?

Paul Gougelman: This relates only to amending these rules okay? Now if you are talking about a Charter Amendment, you do not need to have one member from each district.

Dave Neuman: Okay

Paul Gougelman: to vote in favor of that. This is strictly related to amending the rules.

Dave Neuman: Okay, so for my understanding if this is just the rules and we have just gone over that, do we like, I just want to make sure I am asking my question correctly. So, in regards to an amendment just for the sake of discussion, do you need to have one member from each district to pass this board for that?

Paul Gougelman: For a rule amendment?

Dave Neuman: No, for one of the...proposal on the Charter Cap or something like that?

Paul Gougelman: Oh, no.

Dave Neuman: Okay, so this is just for rules so which from my understanding I think we are past our rules discussions for the most part.

Mike Haridopolos: I would just say this, I think you are asking good questions. I think from Mr. Moore's point, I respectfully take a different stand. I think when you talk about the rules, I want to be consistent as far as whether it be that sixty percent or two thirds majority, just like if Delaware is not in agreement with all fifty states. I am okay with this rule request from Mr. Trettis, but again it is the will of the Commission, whatever is best in your perspective. Other debate? All right, why don't we go ahead and do a roll call on

this to avoid the aye's and nays. Mr. Fisher? Mr. Burns did you want to come speak on this?

Robert Burns: Thank you, Mr. Chair. I wanted to get this in before we go to the proposals. I agree with Mr. Trettis with the bill, or the proposals should be in the final format whether it's strike thru or underline, but he made the comment that the proposals are coming forward in a summary manner. Well the reason for that, as someone who has submitted a proposal from the public, there is only one form on the Charter Review website for submitting a proposal. There is no instruction, there is just a blank form. What it asked for on that form is summary explanation and background, and that is all that it asks for. So, the reason you are getting the summary presented is because that is what the form calls for. If it had requested ballot language, I think some people are more than capable of presenting that, but it doesn't ask for that, so I think as a member of the public, we would assume that once we bring forth the summary and the idea, it is either going to be workshopped through this Commission, or through some other mechanism to come up with the ballot language. So, it was a little alarming that we wouldn't vote on something for approval if it is not in that ballot language when it has never been requested for proposals.

Mike Haridopolos: I think that is a good point Mr. Burns, and I am not sure if you heard the earlier discussion, but those proposals that have legs, I think we are going to work as a group to get the language correctly in the seventy-five words or less etc., format and make sure that yourself, or others that are sponsors are in agreement with that language, or at least made aware of the potential changes that the group wanted to make. It is one person to propose it, but in the end, we get to dispose it if we wanted to. So, I think without question we will use our expertise, whether its our legal team or others to make sure the language is in accordance with what we think the Constitution and the legality necessary to get it on the ballot and get the voters an aye or nay vote.

Robert Burns: Thank you, appreciate it.

Mike Haridopolos: Thank you.

Bob White: Mr. Chairman, I am over here.

Mike Haridopolos: Mr. White?

Bob White: If I may, and I am sure this will come as no surprise to my fellow Commission members, but I am a little confused. I would like to kind of clarify this. What we are about to vote on has nothing to do with what we are sending to the public?

Mike Haridopolos: Correct.

Bob White: This is only how we operate as a group.

Mike Haridopolos: That is correct.

Bob White: And presently, it seems that if there is not someone, a member of the Commission that has been appointed by all five of the Commissioners here present then

we cannot amend the rules under the language that I am seeing here, right? We can't even take a vote because there is not one of us from all five of the district's present?

Mike Haridopolos: Yes, I think you said that correctly.

Bob White: Okay, that's all I needed to know.

Mike Haridopolos; I think what is on the floor right now is Mr. Trettis proposal on the rules, not the, what we are going to send to the public is: There's five different districts, each district has three appointees. If in all five districts if you don't get at least one affirmative vote, that rule cannot be changed. So, as I mentioned to you, I support Mr. Trettis's idea, even though there are differences in our County, that on a rule change, you do not need at least one vote from all five Commissions is all I am saying. Okay, further debate on that? Why don't we do a roll call. If you agree with Mr. Trettis's idea that you do not need all five County Commission appointees, one of them for a rule change vote yes, if you don't vote no and if you could please call the roll.

Melissa Brandt:

Robin Fisher (District I) - No
Kendall Moore (District I)- No
Marcia Newell (District I)- No
Mike Haridopolos (District II)- Yes
Marie Rogerson (District II)- Yes
Blaise Trettis (District II)- Yes
Bob White (District III)- Yes
Matt Nye (District III)- Yes
Gabriel Jacobs-Kierstein (District III)- Yes
Tom Jenkins (District IV)- No
Cole Oliver (District IV)- Yes
Sue Schmitt (District IV)- No
Jordin Chandler (District V)- No
Vic Luebker (District V)- Yes
Dave Neuman (District V)- Yes

Mike Haridopolos: I have got a nine to six vote.

Paul Gougelman: Yes

Melissa Brandt: Yes

Mike Haridopolos: So, the rules have been changed. Congratulations Mr. Trettis.

Mike Haridopolos: Okay, on the final item on G before we get back to the proposal, we are on future meeting schedule. It is under G3 in your packet. I just want to make sure that everyone is aware of the dates that are in play as we look to conclude in August of this year, and as clear to the public, and as everyone recognizes now that if you want a proposal, make sure you have submitted it to our staff before the 12th of May so that we

can put it on the agenda, and give you that opportunity to have three public hearings. Also, if you were not hear earlier, the situation is that in an abundance of caution, we are in our first public meeting, not our third. So, we will not have a vote on some of these proposals for a few meetings from now. Again, we have plenty of time to do that, I am glad everyone agreed with that motion. So, our agenda is now set, again if you have any concerns about that, please let the staff know. Everyone has been very good about responding to potential meetings, but hopefully with these meetings being announced early, and publicly etc. that we are all in good standing. So, I just wanted to make sure that everyone was well aware of that meeting schedule, and if you cannot make it, please let the staff know, with that in mind. Any other questions on the schedule? Okay, let's head back to section F under proposals. We have the Charter Cap which is now public hearing number one. That is by Mr. Trettis. I think everyone is well aware of this. Are there any questions for Mr. Trettis on number one before we take public comment? Okay let's hear from Mr. Johnston. If you are still here, you are welcome to comment on the Charter Cap. We are going to set this at three minutes for anyone who wants to speak from the public today. That can be extended of course if there are questions for the presenter. Mr. Johnson, welcome back.

Stan Johnston: Stan Johnston 860 Poinsett Ave, Professional Engineer City of Titusville. I am surprised, because normally what happens is when you have an agenda item, you go over the agenda item, then you have those that are in favor, those that are opposed, and so forth. So, I am going to stop right here and sit down because I am surprised, as it appears to me that this is not the general order of doing business. Thank you.

Mike Haridopolos: Thank you. Next, we have Sandra Sullivan talking about agenda item number one. Welcome back, Ms. Sullivan.

Sandra Sullivan: Good afternoon, Sandra Sullivan, South Patrick Shores. I am not in favor of taking away the Charter Cap. We are going into perhaps a highly inflationary time period. We are getting increases on different aspects of the County. We just got a compounded twenty two percent increase on our garbage disposal this week. So, related to this, when I look at the finances of the County, there is a lot they could do to address expenses. For example, we haven't had an impact fee revision or study for fifteen, or even more than fifteen years depending on the item. So, until the County is more responsive in their planning, I am not in favor of giving them a way out with all of the other increases we are seeing. A perfect example of that, on the garbage disposal this week is they knew about this as an issue for three years, they waited until May to start building the facility. It won't be done until 2026, and so in October they approved having to transport trash and then nine months after that they asked how are we going to pay for this, and let's do a study on how we are going to pay for this. Well, how they are going to pay for it, is that we are paying for the transporting of that trash to the facilities until 2026 with a 22 percent compounded rate increase on our fees. So, if we take away the Charter Cap, we are not encouraging the County to do due diligence in finding ways to be fiscally responsible. We are conservatives, we want fiscal conservative government. This was put into place, you know the voters wanted this protection. I do realize there are not a lot

of counties with this, as being one argument for doing away with it. But, we see this intense pressure, we know with growth comes a lot more expenses. The cost associated with growth should be accounted for by impact fees. We do not have impact fees being evaluated, being adjusted for a study for over fifteen years, and in 2016 they had a study on the transportation aspect and they rejected it. They were told it was going to cost more, so those costs kicked the can down the road, and guess who ends up paying for it? The people. Instead of the growth being fairly distributed between the developers and the people. Thank you.

Mike Haridopolos: Thank you.

Vic Luebker: Mr. Chair, can I make something clear?

Mike Haridopolos: Sure

Vic Luebker: Unless I am totally wrong, this is not about removing the Charter Cap correct?

Blaise Trettis: That is correct.

Vic Luebker: Okay, thank you just so the public is not confused.

Blaise Trettis: Mr. Chair can I comment on that?

Mike Haridopolos: Of course.

Blaise Trettis: Yea, this is definitely not a proposal to eliminate the Charter Cap. It is the opposite, quite the exact opposite. It is to add language to the Charter to have the Charter Cap enforced. It has not been for many years now. When the County Commission votes to exceed the Charter Cap, they have made that increase above the Charter Cap amount, three percent or the CPI whichever is lower. They have made that part of the baseline budget, so the Charter Cap although it exists in theory, it does not exist in reality because of the way the County Commission has done its budget. So, this uses language from a lawsuit started by Scott Ellis, Clerk of Court, assumed by Rachel Sadoff, Clerk of Court. Takes the language from the County Attorney which said: This is the language that would be needed to enforce the Charter Cap. So, it is right from the lawsuit. I want to make it real clear that this proposal is to enforce the Charter Cap which has not been enforced up to this point. Thank you.

Mike Haridopolos: Mr. Jenkins.

Tom Jenkins: Mr. Liesenfelt, can you tell us how many times the County Commission has declared an emergency on the budget?

Jim Liesenfelt: Twice for critical needs.

Tom Jenkins: Twice in how many years?

Jim Liesenfelt: Since it has been implemented.

Tom Jenkins: Twenty years, probably.

Mike Haridopolos: Other questions, comments?

Bob White: Wasn't the most recent

Mike Haridopolos: Mr. White, go ahead.

Bob White: Yea I was just going to say wasn't the most recent time when Sheriff Ivey came and asked for an increase in his budget that exceeded the cap? That was only a couple of years ago as I recall. And I don't think they have gone back to enforcing the Cap as it was prior to the Ivey increase, for lack of better terminology.

Jim Liesenfelt: I don't know all of the details, it was two or three years ago the last time they voted for a critical need.

Mike Haridopolos: Mr. Trettis:

Blaise Trettis: It was actually only 2008 that the Charter Cap was voted into office, it hasn't been twenty years so three times I think it has been violated in what, thirteen or fourteen years, so it is violated pretty frequently and what does it matter if it is once? Once is too many. The Charter says that there is a Charter Cap, so I don't see how one or three is okay. Thank you.

Mike Haridopolos: Ms. Schmitt.

Sue Schmitt: The only thing I differ on is that it was done twice, and that Mr. Trettis said that it was violated. It was allowed in the Charter if four members of the Commission voted to go past that. That is not a violation of the Charter. If you want to change your word that is fine.

Blaise Trettis: Mr. Chair.

Mike Haridopolos: Mr. Trettis.

Blaise Trettis: I am not arguing that there wasn't a supermajority to exceed the cap. What happens next is that exceedance of the cap becomes the baseline budget for the next year. That is where the violation comes in. I am not arguing that there has never been a supermajority. The violation comes in that the Charter Cap it can only be for one year based on the wording of the Charter. But the way that the County has been

budgeting is a baseline which becomes a permanent part of the budget which exceeds the Charter Cap.

Sue Schmitt: I know what you are saying however the courts also ruled a different way.

Robin Fisher: Mr. Chairman, I just want to remind everybody out there, that we are also the only County that has a Charter Cap and I think that is totally unfair for Brevard.

Blaise Trettis: Mr. Chair.

Gabriel Jacobs-Kierstein: I have a question for Mr. Gougelman. Are we pretty clear on what is a critical need? Is that definition or that threshold pretty flushed out?

Mike Haridopolos: Mr. Gougelman.

Paul Gougelman: Off of the top of my head, I don't know the answer to that. I suspect it is what the Commission makes of it. The County Commission.

Mike Haridopolos: Mr. Liesenfelt, is that pretty much in line. With what the Commission decides? There is no governmental definition correct?

Jim Liesenfelt: I don't really have the answer for that Sir.

Mike Haridopolos: Okay, let's add that to the list of fun things to do for the next time. Mr. Trettis.

Blaise Trettis: I would like to point out that the lawsuit was not won or lost, it was dismissed on procedural grounds. That was appealed. The dismissal was reversed which means the lawsuit is back in circuit court. So, there hasn't been any answer by the Courts on this.

Mike Haridopolos: Thanks for that information. Other issues. Okay, let me just add one more thing here just for procedure because we are getting into public hearings. Again, this is hearing number one. And as we are all looking at our calendars rights now, it would eligible, this item would be eligible to be voted upon on the 23rd of June. So here is the options we have. We can have the vote that day after all the public hearings are done, or we can wait until the 7th of July to have the vote on one or more of these items. Again, so just keep that in mind and just let my train of thought go further. I take good point to Mr. Moore's argument or point that we don't want to have a vote a rama. And theoretically we could have a vote a rama that day, and eight of these nine proposals, right because this is day one for all of them. I would prefer that we break it up at a minimum because my guess is of these nine, maybe four or five will actually make it to the end. Do we want to have that vote a rama, or do you want to kind of line it up now so the public is aware that we are going to break it up so it is done in a smarter way? The second thing I want to ask, going back it has kind of triggered my mind is, we have talked a lot about this three- attorney panel. I think there are some legitimate concerns about

that, for a variety of reasons. If we voted on an item, let's say June 23, when does it go to that three judge/attorney panel? The reason I ask that is let's say we lose there, if we are still scheduled to have meetings does that mean that we still have standing? And we could get away from asking you to do pro-bono work? (laughter) I am being serious. I want to know that we are still in session, so to speak, and if these three attorneys say that don't like what we have done, we could still get a bite at the apple, so that the work you are trying to get done here can be done. Is that, are we still in session like we use as a legislative term, or are we, once we have voted on it we are out of the mix?

Paul Gougelman: Well I think that once you have finished with a particular item, and send it on to the three- member panel, I think you are done with it. So, let's say at a meeting in June, you decided to go ahead and approve something, I suppose you could always take a look at assuming you haven't sent the proposal onto the panel.

Mike Haridopolos: I am just thinking out loud. I want our work to be done. I don't want these three people annihilate it. And if we do make a mistake and they point out something we didn't see, I would like the ability to make that amendment. This goes to an overall argument that I think Mr. Trettis had a proposal before us that might change a little bit. I don't consider a change to be meaning that you have to go back to the start. I consider like you would in the legislative process. In the first committee it starts as one thing, and it gets amended. It doesn't mean you have to go back to the beginning. So, again, let me go through this thought process. If there is something that the three-attorney panel doesn't like, is it your belief that we can go back and amend that? Or do I need to create a new vehicle that I could amend later?

Paul Gougelman: I don't think anybody has ever considered that for two reasons. Number one, it just hasn't occurred. But number two is, if you look at the Charter, as I was pointing out earlier, if the three-member panel says oh, this is inconsistent with the State Constitution, the Charter does not say what happens to it. That is something that has been omitted from that provision. It only talks about if it is approved by the panel, then it goes onto the ballot. But, if it is denied, it is unclear under this Charter.

Mike Haridopolos: There is some lawyers in here. I am not one, I just like to play one. Is there anyone here who, okay I am going to ask Mr. Jenkins in a second, but does everyone understand my train of thought here? But please Mr. Jenkins, and then I will go to Mr. Moore after that.

Tom Jenkins: I am just going to ask a question of Mr. Gougelman. My recollection is that the Charter says that the County Commission will provide this body with sufficient funding to do their duties. Is that correct?

Paul Gougelman: Yes

Tom Jenkins: Sufficient funding could include your opportunity to hire an attorney to represent you, and as I mentioned once before, one of the attorney's that we had interviewed mentioned that he was representing an Orange County Charter Review Commission who challenged the County Commission, and I think he said they won. So, I think there are some avenues, but I also wanted to remind you that the three-panel attorney is looking at two things: Constitutionality, and it is a single subject, not a multiple subject.

Paul Gougelman: Constitutionality, consistency with general law, and single subject.

Mike Haridopolos: And, with that in mind, at least the ones we are talking about, in your opinion are any one of these eight or now nine before us violate any one of those in your opinion?

Paul Gougelman: Perhaps.

Mike Haridopolos: I think that is something that we want to take under consideration, because again we are not here for our health. We are, we want to make sure our time is worthwhile. Mr. Moore.

Kendall Moore: Mr. Chairman, I agree. Although I have said to Mr. Trettis that I disagree with doing away with the panel, I don't believe the panel is the ultimate stop-gap. I think if I recollect, Mr. Gougelman they actually respond with a memo relative to their opinion and if they had a concern on the three issues that they were looking at, and we were still impaneled, I would hope it would provide for us the opportunity to cure what may be there, presumably if it has passed this body with a ten- vote requirement. That we would have the opportunity to cure. I think that is where Mr. Haridopolos is going asking how, by what mechanism would we use to do that after hearing from those people.

Paul Gougelman: Yea, my point is, is the Charter leaves that wide open, it doesn't tell if the panel finds something say inconsistent with general law. What happens? And the Charter is silent on that. It only talks about if the panel finds that the proposal meets the requirements, so I think that was just something that for whatever reason left out, and so the question is then what happens?

Mike Haridopolos: I think to that point, I don't want to get in a lawsuit Mr. Jenkins, but it is nice to know we have some money to do that. I think what we have done in the past, again I am just going by my past history, when the Courts have ruled against us, and we are still in session, we will go out and read the ruling. If we happen to agree with it, and say it is unconstitutional we will make that adjustment. Of course, there is a lot of definition about what is constitutional or not depending on which Judge you pick, but with that said: We know we will be here until the 4th of August, potentially. And if we have a vote on the 23rd of June, I think we will get a few more bites of the apple short of a lawsuit, and if we need a lawsuit, we still have some time to do that. So, as long as we are in session, to your point, we have resources to hire a lawyer, and as long as we are in session, I think we have the right, again correct me if I am wrong. If we get a memo back saying this is wrong, or we think this is inconsistent and we happen to agree with them,

we could come in and adjust the ballot language, whatever it is, have a vote if ten Commissioners say aye, then they will look at it again, trust me. At least we would have a second bite. I would like to do it that way, because our time is valuable. Mr. Nye?

Matt Nye: So, now you have the wheels turning for me. I am wondering should we add a couple of meetings, another one in June and perhaps another one in May since we essentially reset the clock today? Is that something

Mike Haridopolos: Well, I think it is a good point. The only thing I would bring up is the first vote to take place on the 23rd of June, right? That is what I am looking at. We would have three meetings after that with potentially no work to do because I think some of these proposals are done. I would say in my opinion, I am not going to say which ones, but I think maybe three or four might make it, or at least have potential for it. I think some are just going to vanquish itself. But, I would like to have as many votes on credible issues by the 23rd of June, and that will give us those three additional dates. Do we still have, what's our last date that we can actually do it, is this literally the last day, on August 4th?

Jim Liesenfelt: The Supervisor needs the language I believe it is August 22nd, and the last board meeting before that is August 16th.

Mike Haridopolos: Okay, so I would ask is this: To Mr. Nye's point, if we think we need more meetings we have the right to add meetings down the line depending on what happens the 23rd of June?

Jim Liesenfelt: Yes sir.

Mike Haridopolos: And maybe by our rules, we can say only proposals that were handed in by May 12th, so that we don't just get a whole new ration of them. Is that okay with everyone?

Matt Nye: That was my concern. You were mentioning staggering them like saying we were going to vote on these on June 23rd, then on so that is why I was thinking we might need one or two more.

Mike Haridopolos: Good point. Good Point. Okay, so if everyone is comfortable

Jim Liesenfelt: I am sorry Mr. Chair, but I just want to remind the Commission if you are adding more meetings for discussion of agendas, the Charter says 10 days apart for those three meetings.

Mike Haridopolos: No question. But I am looking at the 23rd of June, right and let's say on or before July 7th we have heard back in the negative on one of our proposals, we could say theoretically put a meeting on the 19th and 20th of July if we wanted. We can be that flexible. It's ten days- notice.

Jim Liesenfelt: The Charter talks about three meetings of intervals of not less than ten days.

Mike Haridopolos: Okay, so we could have one, let's fight that animal when it gets there. Everyone sees what we are trying to do I just want to be clear.

Sue Schmitt: Mr. Chairman, I think at looking when the final date is for proposals, you would have to go to that first meeting in July for three hearings.

Mike Haridopolos: Well, I am looking at today is number one. May 12th is meeting number two, and to your point, anything new that comes down the pike, yea.

Sue Schmitt: yes, and if it came to the board for the May 12th deadline, then you would have to go to July 7th.

Mike Haridopolos: I agree. But we have also warned, if you bring them in late good luck. But to your point, we would still have one meeting at the end that is still kind of open to suggestions. So, again just keep it in mind. I think that we can adjust times, we just need to be very conscious of the ten- day rule, and so forth. So, with that in mind, I just wanted to put that out there. So, the question that comes up after that long deliberation is: Would you all like to vote on the first four measures on the 23rd of June after Public Hearings, or would you like to have your first vote on July 7th with some time to think about it?

Blaise Trettis: Mr. Chair, the 23rd I prefer as July 7th is a big vacation week right after July 4th.

Mike Haridopolos: I would really like to vote on the 23rd because by then we are really at meeting number five or six. I would prefer a vote on our first four items on the June 23rd and maybe even potentially more with more proposals. I am belaboring the point here, are we allowed to, even though we are not having a final vote on this, Mr. Liesenfelt, if there's some proposals after we start discussing it that we think are dead, who would, in our old world a Senator or Representative would basically be saying I am pulling my bill. Do we have a right, in essence to have a vote before three public meetings and say hey does anyone want to get rid of this idea because I don't think it has legs, and vote it down so it is not even in the wish, or do we even have to have it have the slow death of three public meetings?

Tom Jenkins: The Charter says it only has to have three public hearings if you are recommending it to go on the ballot. If it is not going on the ballot, you don't require three public hearings.

Mike Haridopolos: Okay, I like that idea. Mr. Fisher.

Robin Fisher: The only thing that you might want to consider is a tentative meeting on May 22nd, I think if you did that, if you had a bunch of proposals in May that come before the 12th, you do that on the 22nd, and that you have that other hearing in there that you do by the 22nd of July.

Marie Rogerson: I would agree. Add another in in May or have one in June. Have another one built in if we are concerned.

Robin Fisher: You know, it depends on what you get between now and the 12th. You might be okay, you know what I am saying?

Mike Haridopolos: I agree, so good point.

Robin Fisher: So, May 22nd would be a tentative meeting date.

Jim Liesenfelt: Sorry Mr. Chair, 22nd is a Sunday, happy to come in but

Robin Fisher: 23rd, maybe the 23rd.

Mike Haridopolos: I am still in town then. Why don't we figure out what happens, and if we need to on the 12th we can call for another meeting.

Gabriel Jacobs-Kierstein. Mr. Chair I have a question for Mr. Gougelman or Mr. Liesenfelt. Is there a timeframe that this three- panel attorney committee has to get back to us? In other words, could they drag their feet, or do they have only 7-10 days which gives us a better idea of what we need to schedule on how we can proactively make this efficient.

Paul Gougelman: No, I don't believe there is a prescribed review time.

Mike Haridopolos: That is a great question, I like that. Can we make a proactive request to the County Commission that any proposal that is passed, and literally like ask them tomorrow to say that they will agree to do an "x" number of day review? Can we put that on the County Commission agenda item? Can we say we must have the proposal or memo back within "x" number of days?

Sue Schmitt: inaudible

Jim Liesenfelt: I would have to double check the RFP language, but I believe so.

Mike Haridopolos: Okay good, I would like to do that.

Tom Jenkins: Well, if you adopt some on the 23rd you can automatically shoot those and start the process.

Mike Haridopolos: We just want to make sure we get a response in x amount of days. So, lets find out that answer, and obviously there is a bunch of County Commission meetings before the 23rd of June. Okay, now we are done with all of that. Go ahead.

Sue Schmitt: The County Commission is not in session for the month of June. Just so you are aware.

Tom Jenkins: He just gave them the dates, so.

Jim Liesenfelt: She is correct, the County Commission meets on May 17th, there is a zoning meeting the 26th or 27th, I would have to look it up, and then the next board meeting is the first Tuesday after 4th of July whatever date that is. June 23rd would be your meeting sir. July 12th, no July 19th I have.

Mike Haridopolos: One last question on procedural Mr. Liesenfelt. They have to have the proposal in by the 12th of May? Or the 2nd of May?

Jim Liesenfelt: That is by the 12th of May, what that extra note there is that if anybody actually wants it on the meeting that takes place on the 12th of May, we need it by the 2nd. You have a deadline and kind of a meeting together.

Mike Haridopolos: Again, why don't we make the final day of submission the 2nd of May so we don't have that ambiguity? Does anyone object to that? That we make the final day to submit the 2nd of May?

Sue Schmitt: I think it has to follow the Charter doesn't it?

Jim Liesenfelt: Mr. Gougelman knows better, but the Charter doesn't have any restrictions or requirements on when proposals have to be submitted.

Paul Gougelman: No there is no requirement in the Charter.

Mike Haridopolos: So, we just say the last day you can turn it in is May 2nd and then we don't have that ambiguity time of the 3rd through the 12th right?

Paul Gougelman: Yes

Mike Haridopolos: Does everyone understand what we are talking about? Okay so let's make the final submission day instead of the 12th of May, let's make it the 2nd of May. So, if they are not on that agenda on May 12th, better luck in six years, right? So, let's do that. Is everyone in agreement with that? All right, without objection. That is done. Okay, so now we are back on proposal number two. I think we have completed debate on proposal number one for the day.

Proposal 2- Recall School Board Member.

Mike Haridopolos: The recall of school board members, public hearing number two. We have a bunch of appearance cards. But that recall issue is by Mr. Trettis. Mr. Trettis do you want to introduce that real briefly and then we will take up the public comment?

Blaise Trettis: Yes, there has also been submitted, a revised proposal from the original proposal. In the revision what it does it just provides for recall of school board members whether there is a residential school board district vote for school board member or whether it is district wide, meaning County wide because either could happen. So, that is the revision to it, but the proposal tracks the Statute which provides for a recall election of County Commissioners and City Council, the Florida Statute, it tracks that very closely. It has the same number of petitions required, the same percentages as State law, the same time limit, it's the same time frames. Really, it tracks the State Statute very, very closely. The only major difference between the proposal and the State law is that State law provides like six different grounds for recall, and my grounds are only two: malfeasance, and then the second one is not more than three votes by the school board member with their vote recorded yes or no with a transcript or as close as you can get to a transcript of the motion that was made. What it does provide, it really provides for the recall of school board members based on their policy decisions, based on what they decide. And, I think that what the reason it has become necessary of years of late is because of the School Board's decision on mandatory face mask wearing in schools, and its transgender policy, which is on a one- page form on the Brevard County website, which provides that teachers and all school personnel must call kids K-12 grades by the name they say they want to be called by, by the pronouns that they want to be called by. It also requires that

teachers and other personnel not inform parents that their child comes to school and assumes a different identity. If a boy wears a girl's clothes and wants to go by Susan, then the school teacher cannot tell the parents, it has to remain confidential. Which violates the Parental Rights in Education Bill just signed by the Florida Legislature which is a big reason why there might be a recall. Remember it requires the School Board allows boys to use girls bathrooms, locker rooms and showers. Same thing for girls uses boys, boys use girls, they have to allow that. And, it also has information on its guidance on its website which has information that would help kids transition from "transition" end quote to the other sex. So, that is another reason why I think this recall election proposal is needed. Those are the two main reasons, and that is it. Thank you.

Mike Haridopolos: Okay thank you. Ms. Schmitt for a question?

Sue Schmitt: Just so the public knows that you withdrew your first proposal, you put that in the memo, and then you came out with the new revised. I think that way people won't be confused on what is being presented.

Blaise Trettis: Right, that fairly sums it up.

Mike Haridopolos: The proposal regardless this is hearing number one. We know what the proposal is, and as we have mentioned before, we are looking at this process where if you make an amendment it doesn't mean you have to go back to the start, you are just it gets amended as we hear more comments from the public, let alone fellow Commissioners. All right, thank you Ms. Schmitt great question. All right we have Gene Trent here to testify. Mr. Trent, welcome. And everybody is going to be given the opportunity of three minutes to present and then of course whatever time necessary to answer questions from the Commissioners. Mr. Trent, welcome.

Gene Trent: Thank you. Gene Trent, resident of Cocoa Beach. I am here to speak, I will be brief. I am a candidate for School Board District 2, and as a potential future School Board Member, I am in favor of any type of recall of an elected official. I believe if I was in the hands of voters to put me in that office, if I lose their confidence, I should be able to go back into their hands and be recalled. So, I would be for that, I just wanted to let you know.

Mike Haridopolos: Thank you Mr. Trent.

Gene Trent: Sure.

Mike Haridopolos: All right next we have Sara Mirsky. Thank you so much for joining us today,

Sara Mirsky: Thank you. Let me get my notes here. Good Afternoon Chairman Haridopolos and the County Commission Charter Review. My name is Sara Mirsky. I am a wife, mother to two children in BPS, registered voter, tax payer and constituent in District 2 for School Board and District 4 for County Commission. Thank you for your time and for volunteering to be on this County Review Board. Today I am speaking in favor of all school board members to be recalled. I do believe that all elected officials in Brevard County should be able to be recalled. But I know today we are addressing the ability to

add school board members to the County Charter to be able to be recalled. This is a bi-partisan issue. Let me repeat. This is a bi-partisan issue. I am originally from Chicago, and unfortunately, I am no stranger to elected officials on both sides of the aisle going to prison for crimes they committed mainly against the tax payers and voters. Speaker of the House, Republican, Dennis Hastert went to jail for crimes. Governor, Rod Blagojevich went to jail for selling President Obama's Senate seat, amongst many Alderman's going to jail for frauding the voters and tax payers. When I moved from Chicago to Seminole County, our Republican Tax Assessor, Joel Greenberg went to jail and was recently sentenced for defrauding the tax payers. The voters of Brevard deserve the right to be able to recall school board members, especially when they are clearly violating the law. Thank you.

Mike Haridopolos: Thanks Ms. Mirsky. Stan Johnston. Welcome back Mr. Johnston.

Stan Johnston: Stan Johnston. I am for this also. I am pleased to be here before such honorable people in our community serving our County Commissioner and County Manager and so forth. I used to work for Mr. Jenkins, so when I am here, I did something a few years ago, and that's why I am here with a little bit of experience, I had a little bit of trouble with the City of Titusville. It came to the point where I even sued them. I sued them for breaking Sunshine Law, and well they lost. They lost and paid my attorney fees, court costs and so forth. So, you are in the same situation, and I don't see that you are making progress on this problem that you have announced. Although you say this is hearing one and so forth like that, but all these decisions you have made in these other meetings, they are, I don't know what is going to happen, like for example, you have these minutes, all these minutes they are all illegal, and they should be dealt with. And, Mr. Gougelman or whatever the name is, it just seems like you are missing the point, and you should be addressing this issue as if it is genuine. You have broken the law, and you need to make amends, in other words as far as these other meetings. I just see that you brushed me off.

Tom Jenkins: Stan, let me clarify for you, and this is my understanding. The earlier meetings were advertised, they were announced. They were just not advertised as a public hearing. So, the meetings were legal, the public hearings are starting today.

Stan Johnston: Okay, thank you for that clarification. I appreciate that very much.

Mike Haridopolos: So, you are agreeing with us now? Are we okay then?

Stan Johnston: Well, I don't know.

Mike Haridopolos: I gave you the win on the first one, yea give us the win on the second one.

Stan Johnston: All I can say is that I am not an expert at this, I am really not an expert. I mean I have my attorney to handle this thing and you guys are smart, and I want to say there is a lot I don't know, so. Thank you very much, God Bless You.

Mike Haridopolos: We appreciate you bringing up that point

Jim Liesenfelt: Mr. Chair, Mr. Jenkins is correct. Every meeting has been advertised. The last two meetings you held, April 7th, excuse me March 24th and February 17th you wished those to be public hearings but we didn't do that, but every meeting has been advertised, and every meeting has been notified.

Mike Haridopolos: Thank you. Thank you, Mr. Jenkins for that clarification. Carol, and if you could pronounce your last name perfectly that would be great.

Carol Vyhonsky: Hello, my name is Carol Vyhonsky. I am one of the original folks who spoke with you back in January and brought this issue to your attention. I just want to thank you all for spending so much time and effort researching this, and listening to all of us, and now it seems like you are going to have an extra meeting to hear from all of us again. (laughter)

Mike Haridopolos: Two more.

Carol Vyhonsky: Two more, Yea, I am just going to go back to what I said in January and that is the bottom line: why should school board members have complete immunity from recall in our County? Section 5.2 of the Charter allows for recall of "certain county officers". Now I am hearing that it only applies to County Commissioners possibly even though it says that officers listed in Section 4.2 are also subject to recall. It seemed pretty clear to me when I read it that would include the Sheriff, the Property Appraiser, the Clerk of Courts, the Supervisor of Elections and the Tax Collector because they are all listed in Section 4.2, but now I am kind of confused as to whether that is true or not. But the bottom line is right now there is no path forward in our Charter to even be able to attempt a recall of a school board member that may be committing malfeasance or some other act of misconduct, and this is what we would like to see changed. Thank you very much.

Mike Haridopolos: Thank you Ms. Vyhonsky, great to see you. All right, Kerry. Welcome back, thank you for taking the time to visit with us.

Kerry Takacs: My name is Kerry Takacs. Good afternoon, I am here to speak in favor of adding the recall of the school board members to the County Charter. It is incredible that people with so much power over our schools cannot be held responsible when they stop representing their constituents that voted for them. Over the past year, we have lost thousands of students at Brevard Public Schools to homeschooling and charter schools, a trend that continues to soar. While the School Board remediated renaming a school for an Astronaut without even asking him first, we have Title I schools, like Endeavour where ceilings leak rainwater into buckets around students while they try to receive and education. This past week Ralph Williams Elementary had no air conditioning. Students were experiencing heat exhaustion as their parents were called to retrieve them. Again, not receiving the excellence our school board has claimed to provide them. These are the issues that should be of the utmost importance. Parents and bus drivers attend meetings and are largely ignored by the school board. They are met with eye rolls and contempt. Sometimes attendees cannot even get into the building to have their public comment heard. The voice of the people goes unheard with little respect, as the board continuously tries to cut public comment time. Brevard county families have no recourse

other than to take their children elsewhere for an education without an avenue to remove inadequate board members.

Thank you for your time.

Mike Haridopolos: Thank you very much. All right, next we have Katie Delaney. Welcome back.

Katie Delaney: Thank you. So, I have been at every meeting. You guys know where I stand, and I hope that you hear us when we speak to you. This isn't about one person, it is about us as parents being able to hold our school board members accountable for the education of our children, and for the safety and well being of them. And, like other people have mentioned, you know our buildings are falling apart, our education system it's a mess. And, our kids are failing, they don't know how to read, they don't know how to do math. We have lost this year, ten thousand students, that's ninety million dollars. And now the school board wants to raise our property taxes because they say they have no money to give our teachers raises. Well, maybe if they didn't break public trust, they wouldn't be missing ninety million dollars. So, I please ask you, this is not about one person, it is about the future generations. We need to be able to hold our school board members accountable. Thank you.

Mike Haridopolos: Thank you so much. Liz Mikitarian. Take your time. Welcome back.

Liz Mikitarian: Thank you. I am Liz Mikitarian, I am also from Titusville. There is a lot of different people from Titusville, I will just say that. Good afternoon, I appreciate the opportunity to speak with you once again about an incredibly important issue to me and to others in the County, and that is the issue of truth. At the last meeting I made public comment to actually assist you in avoiding public perception. I was then challenged by one of your members, that I was not providing evidence. So, I felt the need to come back today to provide a little bit of evidence. I could expose the very deep connections of some of you members on this panel to Moms for Liberty and all of the speakers you just heard from, who are all members. And, I will proceed, who are prompting this push for change. But I won't because I was treated with respect, I think you even gave me some additional time and I appreciated that. What I didn't appreciate I guess was being put on the spot when my intention was to just come and let you know that people were talking. So, I would like to provide Ms. Rogerson and the rest of you some facts. Representative Randy Fine leads a very public dialogue about jailing one school board member. Representative Fine is deeply involved with Moms for Liberty. He threatens that harm will be done to our school district. Fact, two members of Moms for Liberty came before you to initiate this action. The official sponsor of this action, Mr. Trettis has made very concerning remarks about his opinion about issues, and that is how he is planning on moving forward. Opinions, you know what they say about those. So, after standing at this mic as a citizen with that gentle tip, I wanted to provide just some of the reason why the perception is actually the reality. Ms. Rogerson is a high ranking official of Moms for Liberty, the very group pushing you to make this recall happen. Ms. Rogerson ran the unsuccessful school board campaign of the defeated school board member who founded Moms for Liberty shortly after that defeat. That defeat was by the current school board member who this campaign seems aimed at. I disagree with the speakers that say no,

this isn't about a person. And, again I think I stated publicly the last time, I would be fully in support of instituting this, but not in this untruthful manner. So, these perceptions move us to an alarming truth, that there are connections here that are of great concern for your constituents. You will rule on this, but please know that your actions are officially seen as being prompted by a clear retaliation effort against the school board members. Retaliatory leadership is not democracy. Don't be complicit in these very transparent actions. And a final tip: don't ever try to discredit an educator, especially those of us who are retired, because we do our homework. Thank you.

Mike Haridopolos: Thanks Mrs. Mikitarian. All right

Marie Rogerson: Mr. Chair, am I allowed to make a statement?

Mike Haridopolos: Ms. Rogerson for a comment.

Marie Rogerson: Just so everyone is aware, I am the Executive Director of Programs at Moms for Liberty, unashamed, and to clarify for several of the members that have spoken today, I do not know the membership status of the people who put forward this proposal for recall, when they made the proposal for recall, but I believe they would appreciate it being noted that they are not current members of Moms for Liberty. So, for their sake, I would like to clarify that. And, I would also like to clarify that I did not run Tina Descovich's last unsuccessful campaign as I was running for office myself at that time. So.

Mike Haridopolos: Okay, thank you for clarifying that. Thank you very much Ms. Rogerson. Okay, Nick, is he, he left. Okay that concludes the public comments for item number two by Mr. Trettis. Okay, we have some more. We have Mr. Robert Burns. We are still on number two.

Robert Burns: Thank you Mr. Chair, Robert Burns, Viera. I spoke on this before, but since this is our first hearing, I guess I wanted to reiterate the points I made before. One thing I think is very important in our government is consistency. And, inconsistency is the reason we are having this issue now because we have some inconsistency in our Constitution about which elected officials can and cannot be recalled. Every speaker that has gotten up here and spoken has said the same thing, that they think that elected officials should be able to be held accountable by the voters. And, I agree with that one hundred percent. I think that every elected official should be able to be recalled. But, I think what we are doing with this proposal is creating the same problem that we are trying to address, and that we are focusing not on one person, but one office. So, if that person that you have a disagreement with, or that you think should be recalled and runs for another office, say Tax Collector, now we have to wait another ten years before we have another Charter Review to say Charter Review, I mean tax people should be able to be recalled. You know, I think the proposal should be anyone who is subject to being in an elected position, that should be able to be recalled. The County should have the authority to recall that individual for any office, because every person that has come up here has stated the same thing. That they think voters should be able to hold them accountable. That should not apply to just one office, that should apply to all elected offices. That is all.

Mike Haridopolos: Thank you very much. Any questions? I see there are three additional cards from people that have already testified. We have already had testimony. I think Ms. Rogerson responded with articulation where I think we are ready to move forward. We are still on proposal number two. There has been a lot of discussion about should everyone be subject to recall. That is something obviously we have two more public hearings. Think about that as a group. If you think there are other positions that you would like to see included in that, of course we can have that debate. Let's also clarify that what by Florida law cannot be recalled. Let's make sure we do not even get into that so we don't get it thrown out right at the beginning, so I think that is in mind. So, without any other issue we are going to issue number three which is Full Time Commissioner public hearing number one and that is by Mrs. Sandra Sullivan, I believe if you are still here Ms. Sullivan. Please, come on up.

Proposal 3- Full Time Commissioner

Sandra Sullivan: So, I just want to say just for clarity it is not that the Commissioner is full time, it's just that the Commissioner not have another full- time commitment. So, there is a difference. It is not saying the Commissioner has to be full time, it is that the Commissioner doesn't have another full- time commitment. So, I just wanted to reiterate we discussed this before, but the heading might be a little bit not clear. Thank you.

Mike Haridopolos: Thank you.

Vic Luebker: Mr. Chair. If I may, having worked in a Commission office for five years, and having a boss that worked full time as a Nurse Practitioner amongst other things, and the hours that I know she put in and her office puts in. I don't know of any Commissioner that doesn't go above and beyond, and working extra or having a full- time job, I don't think that has any bearing whatsoever on their abilities. I will defer to our past distinguished Commissioners if they want to weigh in about the hard work that they have done, and their staffs do. But, for me this is one of those low hanging fruit ones, where if there is no objection, I would like to make the motion to drop it right now.

Robin Fisher: Second.

Mike Haridopolos: All right, any other discussion on that? It has been seconded for a motion. Any other debate before we vote on that motion?

Tom Jenkins: I would just add that it is pretty hard to define what is full time. You could be an entrepreneur and own five businesses, and is that full time or not? So, I don't know how you define full time.

Mike Haridopolos: Any other comments? All right so we are going to do the aye's and nay's here. We don't need a roll call. All of those in favor of the motion to dismiss this item from our consideration say aye- all those opposed say nay.

Luebker/Fisher – APPROVED, dismissal of proposal # 3-Full Time Commissioner from consideration, as presented by Sandra Sullivan. The vote was unanimous, 14-0.

Proposal 4- Revise Citizen Process

Mike Haridopolos: All right then by your vote, we are going to remove that proposal from consideration. Okay we are now on proposal number four. That is also by Mrs. Sullivan, and Mrs. Sullivan if you wouldn't mind coming up again please and presenting that for us, that would be great.

Sandra Sullivan: So, Sandra Sullivan, I guess we are hearing number one. So the idea is that what is currently laid out the way it works is it is not defined where you go to do that annual process which is if you go ask a Commissioner office, you might not get an answer, or you might have to go to another Commission office to get an answer, and you eventually find out that there is an obscure website that you can go to that is once a year you can submit a proposal. But, that is in December and people are busy with their kids and Christmas and holidays you know all of that, kids getting out early. One of the things I suggested was some clarity on the item of revising the citizen process. Maybe opening up that form to where it is available not just one month a year, but maybe an entire year and in a place where you can look for it. So, it is just that the process isn't there and there isn't a process to get something on an agenda item. I used the example in the other meeting where I was trying to get a formerly used Defense sight for my community and I wanted to get the item on the agenda. I couldn't get an item on an agenda. So, there should, I am just asking for a little more clarity on citizen review process to get an item on an agenda, or to put a proposal to the County that is written by the people. Thank you.

Mike Haridopolos: Thank you so much. Other questions?

Vic Luebker: Mr. Chair, again I am going to go back to my past experience, actually you can go to any Commission office and do a citizen's agenda request item. So, that process is not to say 365, 24/7, but whenever a Commission office is open, you can do a citizen's agenda request. So, unless again, my distinguished other Commissioners object, I am going to make a motion that we drop this.

Mike Haridopolos: Mr. Nye.

Matt Nye: So, but the Commissioner could decline, right?

Vic Luebker: Absolutely.

Matt Nye: Okay, so okay that answers my question.

Mike Haridopolos: Okay, other comments? So, this is a motion?

Vic Luebker: Yes, I make a motion we drop this going forward.

Mike Haridopolos: Mr. White?

Bob White: Yea, I was kind of puzzled by this. It almost sounded like the proposer of the amendment was saying that there is this obscure process by which even if you have been turned down by every single one of the Commissioner's, that there is still an opportunity for you to be able to get something on the agenda, just as a citizen, even though you have been turned down by all five of the Commissioners, is that what we are referring to?

Matt Nye: We did it in 2010.

Bob White: Some way to make that process more reasonable and more open and more available?

Vic Luebker: I would refer to Tom on that.

Tom Jenkins: You can get on any County Commission agenda every week. They have public comments. If you can't persuade three of the five Commissioner's that your subject is worthy of investigation, then it doesn't go anywhere. But you have ample opportunity to present. What the Charter did a few years ago was to create a formal process, it is really more for show than it is for reality because you can come in any week at a County Commission meeting and make your presentation.

Vic Luebker: Mr. Jenkins, clarify this if you will for me. Not only can you do a public comment card, but you can actually fill out a card for every agenda item right? So, you could be heard multiple times through out a meeting, so there is plenty of opportunity to be heard.

Sue Schmitt: That is correct. You can speak to every item on there even if it is on the consent agenda, it can be pulled if you have asked for it, filled out a card, and you can also comment on your one public comment. I mean, I am not going to pick on you, I don't mean it that way, but the last meeting I believe you spoke to four different issues. Three issues, and one public comment, I believe.

Sandra Sullivan: Yes, so for the three and half years I have been speaking regularly at Commission meetings, but that doesn't mean that there isn't items that you want to put on an agenda and request, so I will give you an example: There was a budget meeting for the County Commissioners, there was a group of people that wanted to put on the ballot the EELS program because it is going to sunset, and if it doesn't go on the referendum this year, it will sunset and there will not be funding for maintenance of those lands. They put forward that, and especially the Commissioners said because we are not in favor of funding any conservation lands, we are only in favor of maintaining it. And so, it didn't move forward with anything. So, the way that this process works, the part that is obscure is the way that the Charter is written right now, there is no place in there that tells you where you go to submit this proposal, and the way it works right now is only once a year for the month of December you can submit a proposal. But if a group of citizens want to submit a proposal, say for example to initiate some ballot language to put EELS on the ballot language at this referendum, they can't, there is no mechanism to do that. So, this is about enabling the citizen process without having to go out and collect, I don't know maybe seventy thousand petition signatures to put something on the referendum. It is just a formal process to submit something to the County Commission, to be considered by the Commission with the public. But if a Commissioner doesn't want to put it on the agenda, you can't put it on the agenda. One person can go up and they can speak in public comment, but it's not putting it as an agenda item where there is action taken on it.

Mike Haridopolos: Mr. Nye.

Matt Nye: Yes, so I was on that Charter Review Commission that this proposal came out of, the original proposal. And the entire point was not to be able to have the public be able to comment, it was to force the Commissioners to be able to vote up or down on a specific suggestion. And so, this notion that you can go and try to get on the agenda or make public comments, as Ms. Sullivan said, you can speak until you are blue in the face, and not get anywhere. And so, this was to give people an outlet where if they had a genuine suggestion, and even if it was from the Commissioners standpoint, off the reservation, the Commissioners would be forced to vote on it up or down. And, I was absolutely one hundred percent in support of that, and I think given how this has played out given whatever it has been, twelve years, I would be in favor of increasing the frequency, the window to maybe twice a year or once a quarter. There is a happy medium there, but I do agree that it seems like it has not been utilized, or at least most people don't even know about it. And once a year, if you miss it, now you are off for a whole other year. So, I would be open to increasing the frequency of the window. I don't know if you want, from just a logistics stand point, you know once a month or something like that seems too much. But, once a year seems too long, based on what has happened so far, so thank you.

Mike Haridopolos: Any other questions?

Gabriel Jacobs-Kierstein: Quick question for Ms. Sullivan. I think one of the issues we have hear is you talk about putting in some petition signatures or requiring those so it is just not wide open either. You know, we don't want flood gates for just anybody to just come in and put things on and burden the Commission with things that are just not really pertinent. However, we do want it to be open, right for those that have proposals and for the Commission to review those. How many petition signatures would you want? Can you clarify some of that information for us?

Sandra Sullivan: I was going to defer to this Commission to your experience with what would be reasonable just to have something voted on.

Gabriel Jacobs Kierstein: Is there any other measures that you suggest to kind of weed out some of the less formal requests?

Sandra Sullivan: I don't know I will choose a number, one thousand. Adjust it accordingly if you think that is too few just to simply put something on a Commission meeting so that they can take a vote on it. It is not, it's just a step in the process but

Gabriel Jacobs-Kierstein: Okay, thank you.

Mike Haridopolos: Mr. Trettis.

Blaise Trettis: I think this is a good example of why there should be precise language with underlined language that you want added to the Charter, which I don't think you want any deletions here, you just want an addition, you know but it is hard to take a vote or even discuss what you are talking about when it is in such a general concept and the idea is so vague, really. So, I suggest if you really want to get some traction on your proposal, you put it in exactly the language that you think it should appear in the Charter so we actually have something to discuss, rather than these vague concepts.

Sandra Sullivan: So, on that form, it didn't work that way, so that is why I didn't do that, but I can certainly take the feedback and come up with some language. I kind of thought that you guys did that.

Mike Haridopolos: Mr. Fisher.

Robin Fisher: In the eight years that I served as Commissioner there is numerous residents that would come and give me an opinion on what we ought to do and shouldn't do, and if it was worthy we discussed it and brought it forth to the other Commissioners. If it can't get through five different Commissioners, you know and typically if an issue is very important the person presenting will go to all five of the Commissioners and present their case. And, I think our Commission has been open. They might not agree with you, but they have been open to listen to your suggestion. And, if you can't through the five Commissioners, I don't think we need to be superseding trying to get it on the ballot some other way.

Sandra Sullivan: If that is the feeling of the entire Commission, maybe you need to remove the Citizen Process from the Charter all together if that is your position Sir.

Robin Fisher: I would be okay with that too. Last time they came forward and most of the issues that came before us and I remember that the County was already doing them.

Mike Haridopolos: Okay, we have a motion on the table.

Vic Luebker: If I can get a comment in. Mr. Trettis made a very good point. I think that if this was specific in language, and something comes forward before the deadline that is then we have something to talk about. But right now, I think my motion stands.

Mike Haridopolos: All right we have a motion on the table. Any other debate on this before we, Mr. Trettis?

Blaise Trettis: I just want to point out, I will vote to table it, or vote it down because it is in vague language

Robin Fisher (inaudible)

Blaise Trettis: This is a debate

Robin Fisher: I seconded.

Vic Luebker: Yes, Mr. Fisher seconded.

Bob White: It is still a debate.

Blaise Trettis: So

Robin Fisher: So, you can't make another motion.

Blaise Trettis: I did not make another motion, I am just arguing. So, I will vote in favor of knocking it down at this point, I guess without prejudice at this point. Terminology I am used

to in court which just means you can bring it back with specific language. That is all. Thank you.

Mike Haridopolos: All of those in favor of taking this, or in favor of Mr. Luebker's motion to remove this from consideration say aye, all those opposed say nay.

Luebker/Fisher – APPROVED, dismissal of proposal # 4-Revise Citizen Process remove from consideration, as presented by Sandra Sullivan. The vote was 13-1 with Mr. Nye opposing the motion.

Mike Haridopolos: And by our vote it is approved and so we are going to strike number four, The Citizen Process from the

Bob White: Mr. Chairman, just for clarification for Ms. Sullivan's sake before we move on. Nothing that we have just done would prevent her from coming back and submitting something in a format that Mr. Trettis was suggesting, by the deadline to see if she can't get some (inaudible)

Mike Haridopolos: Yea, and that new deadline is May 2nd, that is correct.

Bob White: Okay

Unknown: I totally agree with that, and appreciate the clarification.

Stan Johnston: Are you going to recognize my point of order?

Mike Haridopolos: You are not on the committee.

Stan Johnston: I know

Mike Haridopolos: Okay, thank you.

Stan Johnston: But the thing is I have speaking cards, but you are not recognizing them.

Mike Haridopolos: Okay, Mr. Johnston you are recognized on item number three.

Stan Johnston: And number four.

Mike Haridopolos: You want to speak on one or both?

Stan Johnston: I had speaking cards on both of them.

Mike Haridopolos: Okay. Come on up. Speak on number three first and then number four.

Stan Johnston: You are correct, I do not have the right to call a point of order. But the thing is, is Mr. Haridopolos is that you should be going to the Robert's Rules of Order. The thing is that when I had a speaking card on F-3, you went ahead and had a vote without allowing me to speak. That is not with Robert's Rules of Order.

Mike Haridopolos: Well, I will tell you what, here is what we are going to do. We are going to hear you on point three, and we are going to hear you on point four and then we are going to vote again. Is that okay with you?

Stan Johnston: Yes sir.

Mike Haridopolos: So, finish on three.

Stan Johnston: Okay on number three, I pass.

Mike Haridopolos: Thank you. Without objection we will have another vote on number three. All those in favor of Mr. Luebker's motion say Aye. All those opposed say Nay.

Luebker/Fisher – APPROVED, dismissal of proposal # 3-Full Time Commissioner from consideration, as presented by Sandra Sullivan. The vote was 14-0 with Mr. By your vote, # 3 is removed from consideration.

Mike Haridopolos: Now we are on number four. Mr. Johnston you are recognized.

Stan Johnston: Okay, thank you Mr. Haridopolos for recognizing my speaker card, and thank you again for going for another vote. On item number four, I pass. Thank you.

Mike Haridopolos: All right we are going to have another vote on number four. All those in favor of the motion say Aye, all those opposed say Nay. (The vote was 13-1 with Mr. Nye voting Nay and clarifying that he got the proposals out of order and his vote was Aye on the last vote).

Luebker/Fisher – APPROVED, dismissal of proposal #4-Revise citizen process removed from consideration, as presented by Sandra Sullivan. The vote was 13-1 as Mr. Nye said his earlier Nay vote on Proposal #3 was for this proposal he had them out of order.

Mike Haridopolos: Thank you, and by your vote, # 4 is removed. Ms. Sullivan, I think people see the credibility here of your idea. If you can work with staff or what have you, I think that would be the best condition to go forward. Okay, let me make sure Mr. Johnston is, I missed this for number six, okay you are on number six.

Proposal 5- Repeal of Three Attorney Review Panel

Okay, we are now on number five which is to repeal the three-attorney panel. Mr. Trettis you're on that one as well.

Blaise Trettis: I am.

Mike Haridopolos: Okay, you are recognized.

Blaise Trettis: This proposal would repeal from all words mentioned in the Charter the three-attorney panel that reviews all Charter proposals. And we have already heard the history of it, but the reason, some of the reasons for it is first of all, we are the only Charter County

in Florida that has this three-attorney review panel. I think it is rather undemocratic to have a group of three lawyers who are paid by the County Commission, have the ability to strike the work that we have done and prevent our proposals from going to the people for a vote. I sort of argued this at the last meeting I think. Where we have the ability to hire additional lawyers if we wanted to hire additional lawyers for opinions on whether a proposal is consistent with Florida law, if it's consistent with the Constitution. Additional lawyers in addition to Mr. Gougelman who has already opined on this proposal, no excuse me that was on recall. But like on the recall we could hire lawyers in addition to Mr. Gougelman. But it is also a conflict of interest because, for example my Charter Cap. I am pretty sure that four out of the five County Commissioners are against my proposal, and for that same County Commission who is against the proposal to be able to hire lawyers who would pass judgement on it, and would have the ability to basically end it, at that point I think it is a serious conflict of interest. There also it could be subject to abuse because the County Commission could decide that the word shall means may. There is case law which says that. That was in Mr. Gougelman's opinion. Also, there is the fallibility of attorney's opinions. On the recall proposal, I think Mr. Gougelman opined that he didn't think it was consistent with Florida law, however when I asked if that were litigated in a circuit court or appellate court could those judges find for the opposite that it is consistent, his answer was yes. So, these attorney's opinions are so fallible and so subjective anyway, it is another reason why it is unnecessary, and those are some of the reasons for the proposal. Thank you.

Mike Haridopolos: Thank you. Any questions for the presenter? Okay we don't have any appearance cards. The only thing I would add on that is we have already had the discussion today about what happens if, right? The three attorneys don't go our way. Would you be open to amending it, so there is some type of appeals process as opposed to, because one thing we don't want to see happen is we act, there is either a clear violation, or in other words do you want some type of appeals process, or do you just want complete elimination, and maybe there is a vote and it passes and then later people challenge that idea and then we lose in the courts. What is your pleasure?

Blaise Trettis: My pleasure is not to amend, again we are the only County in Florida that has this. I think it's bad all the way around. And, also the timeframe. We are already talking about how will there be time to do anything at the end of the Commission's term, and it is too tight. I think now to try to build in an appeals process, so for those reasons no.

Mike Haridopolos: Okay.

Gabriel Jacobs-Kierstein: You know I don't know if this is out of turn or wait until the end for this, but Mr. Gougelman brought up earlier that there needs to be some clarity on the issue if the three -person panel stays. If this doesn't pass, and we do have the three-attorney panel, how does it come back to us, if it comes back to us at all. Do we have that option? So, I wanted to see if anyone wants to volunteer so we don't have multiple different proposals coming in, and is that what you meant by that Mr. Gougelman? Was that an insulation that it needs to be in the form of a proposal?

Paul Gougelman: It does if you plan to keep this provision.

Gabriel Jacobs-Kierstein: Okay.

Paul Gougelman: I think Mr. Trettis is taking the position that no, the provision needs to be ditched.

Gabriel Jacobs-Kierstein: Okay.

Mike Haridopolos: And that is why I brought up the issue, I wanted to see if we as a group wanted to have an appeals process, a quick one so to speak, or at least a clear line of order in which we can get around concerns they might have. But again, it is Mr. Trettis's idea, however he wants to proceed, unless someone but again we have three meetings in this, so if again we can think about this some more. This is an idea which obviously has credibility, so I don't think we need to take a vote today. There is no public comment cards, at least on this point as far as I know on number five correct? At least it is in front of me, so this is still live, if you want to come up with that suggestion, and if we want to go through an appeals process, or if that is the will of the Commissioners. We have two more hearings in which to hear these ideas. I just wanted to bring that up because we have already kind of created our own process at this point in case we don't get our way. It wouldn't be bad if we formalized this since we do have concerns about it, but it is Mr. Trettis's idea, and I don't want to trample all over it. But I do want to come up with a way which we don't have this ambiguity in the future. Great point, thanks.

Gabriel Jacobs-Kierstein: Thank you Mr. Chair.

Mike Haridopolos: Mr. Fisher.

Robin Fisher: One question, Mr. Jenkins might remember this, but some reason I believe that things have passed through this committee and its been challenged before, and it didn't hit the three attorney's and its been challenged before and it was ruled unconstitutional. Am I right on that or?

Tom Jenkins: Yea so one in particular comes to mind, but I suspect there has been more than one.

Mike Haridopolos: Perfect, and we will obviously this idea is still under consideration, and we will have two more hearings on it. If you all want to come up with a process we can, if we don't we just roll the dice as we talked about before, no problem.

Proposal 6- Right to Clean Water

Mike Haridopolos: All right, number six we have the right to clean public water. Public Hearing number one, and Michael Myjak I think you are here, oh there you are, okay sir. have a bunch of appearance cards on that. Welcome back.

Michael Myjak: Thank you. Starting over huh?

Mike Haridopolos: Yes sir.

Michael Myjak: Okay. Esteemed team members of the Brevard Charter Review Commission. I am Michael Myjak and I represent myself and my colleagues on the Indian River Lagoon Roundtable. We are a non-partisan, non-affiliated grass roots organization

that explores environmental issues having significant adverse effects on the Indian River Lagoon Estuary. Today we are here to propose the Right to Clean Water Charter Amendment out of a shared desire and need to save the Indian River Lagoon, the Saint Johns River and several natural wonders which in years past have seen much demise. Our Florida State Constitution charges that citizens in Chartered Counties and Municipalities with the responsibility to protect our citizens, our businesses, our visitors and our economy from legalized harm. But what about our waters? Who is protecting our waters from legalized harm? Today we have no fundamental right to clean water. We have a Clean Water Act, but no inalienable, fundamental Right. And we won't unless we declare it in our Charter. Just like in our Bill of Rights, we are amending our US Constitution, amending our Charter is amending our Charter for the right to clean water. By many measures, we are in a better place than we were in 2008. Our hotel industry is growing every year, the Space industry is taking off again, to (inaudible) Outer Space, and nevertheless, there is economic harm, or lack of a healthy environment right here on planet Earth. And rest assured that restoring a dying Estuary is no more daunting a task than conquering outer space. And yet, whole industries are now depressed in Brevard County because of the State's failure to maintain healthy waterways, wetlands and habitats. Remember our vibrant shell fish industry? That was last millennium. The last time I remember shell fish out here was in 1996, and then we had a heat wave, and then no more shell fish, no more clams. We used to have red fish and tarpon. We used to have tournaments annual tournaments. The Eau Gallie Fishery was world renowned. Where is that today? Economic harm. Clearly, we the people recognize that our Lagoon is dying, in 2016 we started taxing ourselves a half cent sales tax to help clean up the mess that the State has left us with. The Department of Environmental Protection and the Saint Johns River Water Management District are the permitting agencies that are responsible for our waters, which are no longer clean. We lost our last Class 1 water just two weeks ago. Blue Cypress Lake which had been spread with bio solids from Miami got an algae bloom and drops it to Class 2. So, there are no more clean water in Florida. I ask you: after taxing ourselves a half cent sales tax and a price tag of over a half a billion dollars in the last five years, is there a form of more egregious harm that we have granted ourselves to try to fix because of a problem granted by our State. Declaring the Right to Clean Water in Brevard County gives the County Commission a foothold to take the DEP and the Saint Johns to task to clean up our waterways for the benefit of our economy, our visitors and our citizens.

Mike Haridopolos: Thank you sir, are there questions? Thank you so much for presenting today. We have a few folks with appearance cards. Bill DeBusk. Welcome sir.

Bill DeBusk: Good afternoon, thank you all for being up here and serving. As members of this board, well my name is Bill DeBusk, I am from West Melbourne. As members of this board, you represent the citizens of this County, and your job essentially as I see it is to recommend things that the Brevard County citizens will likely approve. So that is what I think your basic job is. In November of 2020, Orange County Florida approved the Right to Clean Water Charter Amendment by an eighty nine percent voter approval, clearly approved. Brevard County, 2016 sixty two percent of the voters approved a half cent sales tax to save this Indian River Lagoon. These examples show undisputed evidence

that Florida citizens, and the citizens of Brevard County want the Right to Clean Water. Florida citizens from all political spectrums agree that clean water and healthy ecosystems are vital to their own personal welfare and the economy. The State government and the current regulatory system have failed. They have failed to protect the basic rights of people, as well as the natural world. The proof of how ineffective this current system is, simply look at the Indian River Lagoon. You know all the stuff. It's got F--, it's got muck, it has got dead manatees. Hopefully some, or most of you were around long enough to see the Indian River before it was destroyed by pollution. If so, you definitely know that the current environmental system has not worked. Clearly the citizens of this County know that the government and environmental protections have failed us. They have proof, and they will certainly vote for the Right to Clean Water because they know it is vitally important. You all have the privilege to represent the citizens of Brevard County, and to elevate these amendments, and make recommendations that these amendments, to make recommendations of these amendments that support the interest of the citizens. So, you are fundamentally obligated to approve the Right to Clean Water because this is beyond a doubt something beyond a doubt that the citizens of Brevard County want. Thank you.

Mike Haridopolos: Thank you for your time sir. All right, Lew Kontnik. Thank you, sir and welcome.

Lew Kontnik: Lew Kontnik, I live here in Brevard and I support the inclusion of the right to clean and healthy water in our Charter. Here is an example of how it might be used. You probably all remember back in the Spring of 2018 we started to hear that Blue Cypress Lake was experiencing an algae bloom. The blue-green algae grew and grew until we had a serious health situation on the Class 1 head waters of the Saint John River, the source of our drinking water in Lake Washington. TC Palm and other media were covering the problem and even tracing it directly to the excessive dumping of partially treated human waste, bio-solids they call it, on Presley Ranch. It took months for DEP to investigate and finally act in its July 12th letter halting, at least temporarily the dumping. DEP reported that micro-system levels in the lake were four thousand seven hundred parts per billion. More than forty- seven thousand percent more than the toxic level of ten parts per billion. Their action was good, but very late, and after much damage was done. Dumping some of the five thousand dry tons per year, five thousand tons dry tons per year of dry poop began in 2012 after the legislature prohibited this dumping in South Florida. The Indian River County disposed of their waste in landfills, but the legislature prompted the dumping of South Florida's poop in Indian River. H& H liquid storage disposal was paid more than a million dollars in 2017 to dump five thousand two hundred and seventy- seven tons on the Presley Ranch adjacent to the Lagoon. Observers had reported that the water was pooling in this dumped material months before the algae bloom began. We knew our very drinking water was being contaminated but there was no path to address the growing issue. What Mike just said, legalized harm was underway. With standing to seek equitable relief under this provision, the observers of pooling water or others seeing the endless stream of trucks full of poo headed to the ranch could have raised this issue, and could have protected the drinking water before it became toxic. It's worth doing.

Mike Haridopolos: Thank you for your time sir. Any questions? Thank you very much.

Bob White: Was that the last speaker on this issue?

Mike Haridopolos: No, we have about six more.

Bob White: I'll wait until they are all through.

Mike Haridopolos: All right, thank you. Laura Lee Thompson.

Laurilee Thompson: Thanks for all the hours you guys are sitting up here doing all this work. This is the first time I have been to the Charter meetings, so I appreciate what you are doing. I didn't realize it was this involved, so many of you. So good. So, I am Laruilee Thompson, I live at 3555 Irwin Ave. in Mims. In my lifetime, I have watched the Indian River Lagoon go from its status as one of our Nation's most commercially productive estuaries that supported hundreds of fishing families, to a lifeless water body that's best known now for the starvation deaths of more than six hundred of Florida's iconic manatees. Its commercial fishing industry has evaporated. Once known as the red fish capital of the world, numerous annual fishing tournaments were held generating millions of dollars for our hotel and restaurant industries as well as our bait and tackle shops, and a lot of other small businesses. The Indian River Lagoon was a popular subject for television's celebrity fishing guides and tourism travel logs. Today many of our recreational guides have relocated to Texas and Louisiana where they can easily find fish for their clients. Nearly forty years ago, my parents started a seafood restaurant in Titusville that had a menu based primarily on local seafood products that were harvested from the Indian River. Today we serve nothing from its once prolific waters. The condition of the river is a threat to multi millions of dollars of real estate, a two billion dollar a year tourism industry, the County's ability to attract new businesses and our own health. The river cannot speak for itself. I am asking you to please give the citizens of our County the opportunity to decide if they will give the river a voice. Thank you.

Mike Haridopolos: Thank you Ms. Thompson. No questions. Maureen Rupe. Welcome.

Maureen Rupe: Hi. I know how you all feel. (laughter) But this is non-partisan. Did any of you see the marine council report card? Total health score of the Lagoon failed. habitat health score failed. The State's money train is not adequate. The FDEP department does not require testing of sewage spills, storm water run-off, waste water pollution, herbicides, pesticides. The (inaudible) is collapsing. Marine animals are in dire-straits. We have manatees dying by the thousand. The State, County, and Cities still do not know why the sea grass is dying, and all the technology we have, Avian flu is prevalent on Kennedy Space Center and other parts of Brevard. Clean water is crucial to every animal on Earth, including us. I cannot, but all of the times I have stood at these dais, and other places on issues and requests, I cannot believe we are here begging for clean, unpolluted water. Please vote to send this to ballot and let the people decide. This is a non-partisan issue, and I think politics is not a factor because nothing can be politically right, if it is morally wrong. Thank you.

Mike Haridopolos: Thank you, Ms. Rupe. Next, we have Stan Johnston. Mr. Johnston, welcome back.

Stan Johnston: I am just going to say ditto to what has been said. So, thank you very much.

Mike Haridopolos: Thank you sir. Next, we have Sandra Sullivan. Welcome back.

Sandra Sullivan. Good afternoon, so I agree that this is a non-partisan issue. MRC recently found our Lagoon in Brevard County to be an F- - down from an F++, worse than the Lagoon. I think universally everybody agrees pollution is causing the Lagoon to decline. It is very concerning that the Lagoon plan does not include pollution. The NEP and IRL Council in the research I have done, requires our local Lagoon plan to have pollution in it. It also goes so far as to specify what pollution is required to be in there, including PPHOS, organic pesticides, glycephate and some pharmaceutical chemicals. As some of the previous speakers said, we have bio sites coming up from South Florida, where some of the places it is coming from is in Miami where they have a very high PPHOS concentration in their bio-solids, and that is coming up here into our waters. In addition, we are dredging the muck out of Grand Canal which is over the clean up target for both copper and arsenic. And we are taking it, and shipping it out to Plat Ranch, and we are putting it on the flood plain just South of our drinking water source. We have had two algae blooms this year on Lake Washington. It is not normal to have that in the Winter time. Arsenic is a phosphorus food for algae. So, is it a coincidence that they are putting arsenic out on the flood plains? Oh, by the way it is a class A carcinogen. From the bio-solids as well, just before Covid hit, we had one hundred sixty some odd cases of Hepatitis A. These pathogens and diseases that is in bio-solids that is going into our water sources. You hear about the flesh-eating bacteria. This is a health and safety issue as much as it is an environmental issue, and it is also an economic issue, because the Lagoon is worth more than a billion dollars in economic stimulus across the Lagoon. So, I am in favor of the Right to Clean Water, and I hope you will consider and put this language on the Charter as a bipartisan interest item. Thank you.

Mike Haridopolos: Thank you Ms. Sullivan. Okay that concludes the cards on Proposal number six. Mr. White, I think you had some comments you would like to make.

Bob White: Thank you Mr. Chairman. I, while I am extraordinarily sympathetic to this cause, I am a native Floridian, I can remember very well what it was like to grow up in Florida when there was only like five million of us, right? I am serious, I mean the degradation that has been done to our lakes, our rivers, our streams, our drinking water sources, it is clearly out of control. You know, I, many of you know, not enough that I ran for Governor, and I stood in the Everglades and I said we need to take the dedicated revenue source that is currently committed to purchasing additional millions and millions of properties in the State of Florida, when already government owns thirty percent of the State in some form or fashion, federal, state or local. Over a third is already owned for environmental, for protecting the environmentally sensitive lands. We ought to take one hundred percent of that resource, that tax source, and we ought to convert it to cleaning up our waters. And, of course that fell on deaf ears, as I fully expected that it would at the time. So, I am absolutely, as I said extrardinary sympathetic to this issue. I don't have though, any idea whatsoever, for the attorney's in the room what declaring it a Right, what the legality would be of that or the legal ramifications would be, so while I am

extraordinarily sympathetic, I keep using that term, I am concerned about the legal ramifications of it, and would really appreciate some input on that, maybe attorney Gougelman can research that. Maybe you already have, I missed a big part of it last meeting because I had to be out of town. So, maybe I missed something in that regard. But, I would really like to have some input on that element of this issue before we conclude anything.

Mike Haridopolos: Sure, thank you Mr. White. Other comments? Mr. Chandler.

Jordin Chandler: Yes sir Mr. Chair. Thank you to Mr. Myjak and everyone who came out to speak relative to this particular item. I was actually going to propose something very similar to this considering having seen what Orange County passed, their Charter Commission passed, and the voters passed in November of 2020 protecting their waterways from pollution. I did actually speak to Mr. Myjak on the phone, and told him that I did have some concerns relative maybe to this particular item. But, after doing some more due diligence I no longer have those concerns. But that concern stemmed from Senate Bill 712 that was signed into law in June of 2020 which is the Clean Waterways Act which potentially could have prohibited local governments from having grounds to sue. So, but I think the fundamental argument of Mr. Myjak's proposal is outlined in his third paragraph in his Executive Summary to us, and if you don't mind me reading that: it says that "the problem isn't a lack of strong environmental laws in Florida, nor is it due to a string of illegal pollution. The problem "set" is a systemic and more like death by a thousand paper cuts which is comprehensively difficult and expensive to remedy for large water bodies such as the Indian River Lagoon, much less to fully restore.

To make sense of our hundreds-of-millions of taxpayer dollar investment, we must be able to establish a stopgap – a "do no (more) harm" mandate, and allow individuals, businesses and nonprofits to engage in the litigation to arrive at a better system" So with that Mr. Myjak, thank you for bringing this item forward, and definitely looking forward to having some constructive dialogue as we move forward

Mike Haridopolos: Mr. Jenkins.

Tom Jenkins: I would also like to get from staff what have the outcomes been over in Orange County since they have implemented their Charter Amendment.

Mike Haridopolos: Okay, that would be helpful, thank you. Mr. Nye.

Matt Nye: So, I actually have a, I have similar concerns as to what has been expressed by Mr. White in terms of the ramifications of this, but I am intrigued by the fact that we are trying to hold the governmental agencies responsible. And, I have a hypothetical for the petitioner, Mr. Myjak. If I am reading this correctly, if it could be shown that a particular policy in regards to a particular species of animal is actually a cause of harm to the Lagoon, this would give Brevard County action against the Federal entity that is driving that policy? Is that, what I mean, yea, okay, cool. Thanks.

Mike Haridopolos: Other comments? All right, we have concluded our comments on number six, the Right to Clean Water. Hearing number two will be at our next meeting.

Proposal 7- Repeal Article 8 and Section 8.1 of the Brevard County Charter

Mike Haridopolos: All right, next we have Mr. Trettis?

Blaise Trettis: Thank you, this would completely delete all words in Article Eight School Board of Brevard County, election of school board members which makes elections by residents area. If you look at the Florida Statute, there is two ways that elections can be, first of all, the Statute you start off with district wide elections. That is the presumption that school board elections are district wide, meaning every elector, every voter gets to vote in every school board race. And the only way by Florida Statute that can be changed two ways by a vote of the School Board to go to single member residential area elections and that vote places it on the ballot, the voters approve it and it becomes by residents area, School Board elections. The second one is by petition, the same way. Enough petitions are obtained, single member districts by residents area goes to the ballot and is voted on. There is no provision for Charter Amendment to provide for this, and this I think is a pretty clear example of the State of Florida preempting the counties from trying to establish residents area school board elections by Charter Amendment because both cannot exist at the same time. It will lead to inconsistent conflicting results. Here is a hypothetical for Brevard County. My proposal is already submitted, it would repeal Article Eight. Then I file another proposal which specifically says, and this is just a hypothetical: Another proposal that says we are going to change this Charter to have district wide elections. And then the School Board next week votes to put on the ballot single member residents areas elections. Let's say all three proposals pass. Logically inconsistent, but voters can do what they want. So, what that would result in, is the electors saying we are going to have both in the Charter district wide elections, and because of the School Board proposal we are going to have single member districts. So, what is the Supervisor of Elections supposed to do on the ballot? Is it going to be single member, or is it going to be district wide because you have two conflicting parts of, two conflicting votes. And I think it is a pretty clear example from that hypothetical of why this cannot co-exist with State law. It's preempted by State law, it's not consistent with State law, and you know it also puts existing school board races subject to challenge unfortunately, but you know I think the change needs to be made, simply because it was wrongly done in whatever year this was done, it is somewhere in here, 1998. So, for those reasons, I have made this proposal. Thank you.

Mike Haridopolos: Thank you. We have a couple of cards. Katie Delaney. Welcome back.

Katie Delaney: Thank you. I will keep it short. I am in support of this. Thank you.

Mike Haridopolos: Thank you. We have Sara Mirsky. Do you agree? Okay.

Sara Mirsky: Thank you so much for your time again. I come from Seminole County and that is a County where you elect school board members County wide and you can recall school board members county wide. Just a couple of comments coming from one area with one school board, and coming to a different area with another school board is what is really interesting is the two differences that I have seen is when you can elect each school board member county wide, there is more cooperation amongst the board, and less politics. This current school board, there is way too many political divides on this current school board and they really need to function to work together, so that is why I am

in agreement with us as the County as a whole being able to elect each school board member in different districts and also to be able to recall them. Thank you.

Mike Haridopolos: Thank you so much. All right any other comments on proposal number seven?

Tom Jenkins: Mr. Chairman? Mr. Gougelman, do you believe that if someone were to challenge the current Charter language about single member districts for school board that there is a probability that it would be overturned for not being permissible?

Paul Gougelman: I think more likely than not; the court would rule that it has not been properly set up through our Charter.

Tom Jenkins: Also, could you find out what goes on in Seminole County? How they have recall?

Paul Gougelman: I don't know that they do, but I will check it.

Mike Haridopolos: Mr. Trettis.

Blaise Trettis: I have looked at the counties that have recall, and Seminole was not one of them. It probably has district wide elections, but it didn't have recall. It was Sarasota County had recall, Jacksonville, and I think Columbia had recall, but it was not Seminole.

Tom Jenkins: Can we get the information on how do they do it?

Blaise Trettis: You know on the recall it is interesting because it is so open ended, they can have a recall election, in like sixty days, it didn't track the Florida Statute at all like mine does for County Commissioners. It is completely wide open. There are no grounds listed, its just they have the right to do it. And that is the way it is.

Mike Haridopolos: If we could get the official list, that would be great.

Paul Gougelman: Perhaps a more interesting question would be in any of those counties has there been a recall of a school board member?

Mike Haridopolos: Let's find that out, that would be great.

Marie Rogerson: While we are asking for information, I understand there is legal ways to go about this, I am curious as to how many counties in the State of Florida have single member districts versus county wide elections for their school board?

Mike Haridopolos: Any other questions? All right that completes proposal number seven. We do not have any appearance cards besides those speakers so we will take that up during the next agenda meeting.

Proposal 8 Vacancies and Suspensions

Mike Haridopolos: Next we have Mr. Burns for vacancies and suspensions section 2.7. Mr. Burns welcome.

Robert Burns: Thank you Mr. Chair. I will try to keep this brief because I think the proposal speaks for itself mostly, but a little bit of background. Last year about July we

had a resignation in the City of Palm Bay for City Council man, Jeff Bailey unexpectedly resigned which left a vacancy for that City Council. The Palm Bay City Charter allows for the Council to determine by an ordinance how to fill their vacancies. That is the language in there. I think they are trying to change their Charter now after the events that took place in July. At that time, the City Council that was there decided to change the ordinance from a special election because of the timeframe that was remaining for councilman Baileys term was less than a year. They decided they wanted to appoint someone to that seat as opposed to having a special election. And the Charter gave them the ability to do that. However, it was met with much resistance within the community, much resistance from members of the Republican Party, it met a lot of bi-partisan resistance for that matter, and as I put into the proposal, Mayor Medina was quoted on television and during the meeting saying that he felt like the process of appointing someone to the Council as opposed to a special election, was un-American and un-Patriotic. That sentiment was echoed by a lot of our leaders, both elected leaders and party leaders. One of the President of the Space Coast Young Republicans, for example also spoke and echoed those same things. He took it a step further and said if there was to be a special election the public deserves the opportunity to hear who is running for those seats. They need to be able to get to know their candidates. One thing that I stated before on the other measure is consistency. I think that we have to have consistency in our government. We have to have consistency in our legislature. So, the hundreds of people that showed up to the Palm Bay City Council to protest that appointment process, have been completely silent as to the process that is hear before us at the County Commission today. We have a resignation of a County Commissioner which has left a seat. The difference is that this Charter says specifically that there will be an appointment. I don't know if those individuals who spoke said that their premise of appointments being unpatriotic, you know un-American would apply now in this instance. But I was also one of those people that spoke out against appointing to the City Council because I feel like the people should have representation that they have chosen. Unlike the City of Palm Bay, the City of Palm Bay members are elected at large, so if someone resigns or whatever may have you, the citizens of Palm Bay still have representation because they have all chosen who they have picked on that seat. County Commission, that is not the case. It is a single member district. So, right now, in the second District, you have no representation, and most of, much of the second District is unincorporated. So, they do not even have representation at al municipality level. So, their first level of representative government would be the State Representative in their District. I would submit that most of the citizens don't even know they don't have a County Commissioner in District two right now because there is no letter that went out to all the residents. So, what do we have, we have an opportunity to appoint someone. Well the Governor, I support the Governor but he doesn't live here, he doesn't know about the Brevard County residents. The people here need to have that same voice to pick who is going to represent them. And, so we go from a democratic, transparent process of our elections, which we all try to hard to protect. To now a non-transparent process where someone is being picked, and it might be someone who lost an election. It might be someone who the voters said that they didn't want. So, at that same time you have the, and you know I am not trying to pick on anyone, but the member that stated he was against

appointments, is seeing an appointment for that same position now, for a different position now. So, we go from unpatriotic and unamerican to now I want it. I am looking for consistency. So, I think the way that we handle it, is let the voters have their voice. One year is more than enough time to have a special election, we just did it in Palm Bay. One of the arguments against it was the cost, there were arguments that the cost has already been paid you know through the sacrifices of our Armed Forces, you know the many different ways that it has already been paid, so the cost is minimal. The cost is paid, I would submit the cost was about two hundred and thirty thousand dollars for Palm Bay to have their special election city wide, which is about one hundred and eighteen thousand people, which is about how big a district would be for a County Commission seat. Or you could say it would be two hundred office chairs. I don't know, that was a bad joke. (laughter) But my point is, the appointments take away from the important democratic process of choosing who we want. And, I think that the people who have been presented are probably would be great in the position, but the point is, our opinion doesn't matter in this case. It only matters who the Governor decides to put there. The other point is, if he decides to put someone there. So, he can go as long as he wants to and not appoint anyone. So, how is that fair to the members of that district to have someone they have chosen someone to represent them, that person has quit the position, and now they have no representation, and they have no way to make sure that they do have representation unless the Governor decides that they do. So, I feel like that is against the whole principle of a democracy, and that is why I submitted my proposal.

Mike Haridopolos: Thank you Mr. Burns. Questions? Seeing no questions, any other motions? Okay.

Proposal 9- Term Limits

Mike Haridopolos: With that, we will go to proposal number nine. Was that timely filed? We are at number zero, right? You want to introduce that really quick and just let people know what you are doing, and then decide if you want to keep on doing it?

Robin Fisher: I am not asking to get rid of terms. A lot of the emails kind of indicated that I was trying to get rid of terms, but that is not my goal at all, even though I could argue that some of the Constitutional Officers don't have term limits. But, I remember being elected in 08 and what I remember about that is that typically it takes a County Commissioner about a year to eighteen months to really understand what the job is about. I jotted down some things that after first being elected I realized that I was now in charge of the budget office, I was now in charge of central services, I was now in charge of communication, had to deal with County attorney's and the County attorney worked for the Board of County Commissioner. You had the County Manager that you were responsible for, you had emergency management, you had fire rescue, you had housing and human services, you had human resources, you had information technology, all of a sudden you were running libraries, people wanted to privatize that, and what did that mean? You had district re-development agency, you had mosquito control, natural resources, management park and recreation, planning department, you had re-development, public safety, public works, solid waste, tourism, responsible for all of that. Transit services, utility services, Valkaria, you had also to deal with the Constitutional

Officers and handle their budget, and then you had all kinds of special districts. If you think that you can learn that real quick, it's hard. And you wake up and you are two or three years into your term trying to figure out what this job is all about. And then during that process you start building your network, goods friends and benefit, you know trying to get that network and relationships going where you know how to move things forward and get things done for your constituents. Most times at the end of four years what I found is if you get up for re-election and you start a term, most Commissioners start with a new staff because most of the other staff is gone. So, you don't really have any experience in that office. So, I just think that it makes some sense, having served in that spot that it could make some sense to allow a Commissioner to serve three terms and have discussion about it.

Mike Haridopolos: Well, thank you Mr. Fisher. We are going to take that item up next week, or next meeting excuse me. So, we are down to seven proposals at this point. There might be an adjustment on one of the ones we removed today. We still have a couple of items, we have new business.

New Business

Mike Haridopolos: Mr. Trettis you have a motion for Mr. Gougelman now I believe in New Business.

Blaise Trettis: It is in writing in the agenda. Motion for attorney Paul Gougelman to seek Attorney General Opinion from Florida Attorney General Ashley Moody on whether proposal to Amend Brevard County Charter to add recall of school board members is violative of Article VIII, sec 1(g) of the Florida Constitution which provides that "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."

Mike Haridopolos: All right do we have a second for that motion?

Gabriel Jacobs-Kierstein: Second.

Mike Haridopolos: Okay it has been seconded. Mr. Gougelman you are commissioned to work on that my friend.

Paul Gougelman: Mr. Chairman I would like to collaborate if I can with Mr. Trettis. I think his motion is well taken

Mike Haridopolos: Okay, without objection.

Blaise Trettis: Yes.

Mike Haridopolos: All right we are on the final section which is public comment. We have a few cards. Mr. Johnston, I believe has left the building.

Vic Luebker: Can you make sure of that Mr. Chair?

Mike Haridopolos: Ms. Sullivan I don't believe is here either, I think she has left as well. Ms. Mirsky, do you have a comment you would like to make? Yield back time, okay. Ms.

Delaney? Okay great. We have reached the end of our agenda items, is there any other items that want to be brought up. Ms. Rogerson?

Marie Rogerson: Just to give everyone on the Commission a heads up, I have submitted and I will be working with Melissa to get it in proper format and get it out to everybody, about a proposal to change the majority that is required by the voters to pass a Charter Amendment to a supermajority. If we have to live by it, I think consistency is important as has been stated, so my proposal will come forth next time.

Mike Haridopolos: Will that be two thirds, or three fifths?

Marie Rogerson: Sixty percent.

Mike Haridopolos: Okay, thank you. Mr. Trettis

Blaise Trettis: You know, I think a good point was made today about the website not informing people, particularly about how their proposal might have a chance at better succeeding, and I think it would be a good idea if the County website were to say something to the effect that it is recommended that proposals be in the language that they would appear on the ballot, and also the language that would be added to the Charter would be underlined, any words in the Charter deleted, stricken through just because people have made a point that without that, they don't know what to do, and were sort of the opinion that was important. So, I would make a motion that would be added to the language on the website.

Mike Haridopolos: Do I have a second on that.

Matt Nye: I will second that.

Mike Haridopolos: Any objections to that being added? Mr. Jenkins?

Tom Jenkins: Not everybody has got that skill set, it should be optional.

Blaise Trettis: Yea, I said recommended. I mean I am not saying it is mandatory, but the language reads recommended that this be done.

Mike Haridopolos: Okay, without objection, we will show that done. Mr. Luebker do you have a question?

Vic Luebker: Just real quick. Since we changed the timeline a little bit Paul, I think that may impact the legal opinion I need from you on 5.2 related to 4.2 because I am going to be on the record, I am a very strong proponent of recall for everybody, and if the language doesn't say that those officers are subject to recall, then I am going to bring that forward.

Mike Haridopolos: Mr. White.

Bob White: Yea, I just want to say generally Mr. Chairman, I know this aint your first rodeo, and you have faced plenty of hostility throughout your career, but I thought you did a really good job today. I think you handled it remarkably fair, and you handled the controversy very well, so thank you

Mike Haridopolos: Thank you, very generous. Thank you

Gabriel Jacobs-Kierstein; Just one thing, since everybody volunteered and threw up their hands to take on that proposal, no really all kidding aside, just FYI I am going to work on something short and sweet that in the off- chance Mr. Trettis's proposal doesn't pass, the three -panel attorney group will actually have to revert back to us to allow us an opportunity to cure it within a certain amount of time. So, I will work on that language if nobody has an objection, I would like to consult with Mr. Gougelman on that.

Mike Haridopolos: I will second that. Without objection we will get that done as well. Other for the good of the order? Well I appreciate the kind words Mr. White and others, and I appreciate the decorum everyone showed. This can get stressful, and I think everyone showed a professional attitude, and as we go through the next couple of months together it will get hot and heavy, it is nice to have such a cool collected group where we are all working together. We will look forward to reading those proposals.

Adjournment:

Mike Haridopolos: without objection, Mr. Fisher moves we rise.

6:07 pm meeting adjourned.

2021-2022 BREVARD COUNTY CHARTER REVIEW COMMISSION PROPOSAL LISTING

#	Author	Submission Date	Introduction Date	Description	Meeting Dates
1	Blaise Trettis	1/03/2022	1/06/2022	2.9.3.1 Charter Cap	2/17/2022 3/24/2022 4/21/2022 ** 5/12/2022 **
2	Blaise Trettis	2/03/2022	2/17/2022	Amended Proposal- School Board Member Recall Election	3/24/2022 4/21/2022 ** 5/12/2022 **
3	Sandra Sullivan	2/16/2022	2/17/2022	Full Time County Commissioner Vote to reject 14-0	3/24/2022 4/21/2022 ** Removed
4	Sandra Sullivan	2/17/2022	2/17/2022	2.9.10 Citizen Process Vote to reject 13-1	3/24/2022 4/21/2022 ** Removed
5	Blaise Trettis	2/25/2022	3/24/2022	Repeal Three Panel Attorney Review	3/24/2022 4/21/2022 ** 5/12/2022 **
6	Michael Myjak	3/22/2022	3/24/2022	Right to Clean Water	3/24/2022 4/21/2022 ** 5/12/2022 **
7	Blaise Trettis	3/23/2022	3/24/2022	Repeal Article 8 & Section 8.1	3/24/2022 4/21/2022 ** 5/12/2022 **
8	Robert Burns	4/06/2022	4/21/2022	2.7 Vacancies and Suspensions	4/21/2022 ** 5/12/2022 **
9	Robin Fisher	4/20/2022	4/21/2022	2.4 Term of Office	5/12/2022 **
10	Marie Rogerson	4/21/2022	5/12/2022	7.3.3 Supermajority for passage of Charter Amendments	5/12/2022**
11	Dontavious "Tay" Smith	04/27/2022	05/12/2022	Article 1, Creation, Powers and Ordinance of Home Rule Charter	05/12/2022**
12	Dontavious "Tay" Smith	04/27/2022	05/12/2022	Amend Article II Legislative Branch	05/12/2022**
13	Dontavious "Tay" Smith	04/27/2022	05/12/2022	Article III -Executive Branch	05/12/2022**
14	Dontavious "Tay" Smith	04/27/2022	05/12/2022	Section 5.2 Recall	05/12/2022**
15	Dontavious "Tay" Smith	04/27/2022	05/12/2022	Section 7.4 Charter Review	05/12/2022**

2021-2022 BREVARD COUNTY CHARTER REVIEW COMMISSION PROPOSAL LISTING

#	Author	Submission Date	Introduction Date	Description	Meeting Dates
16	Dontavious "Tay" Smith	04/27/2022	05/12/2022	Non- Partisan Election	05/12/2022**
17	Nicolas Tomboulides	04/28/2022	05/12/2022	Amending Section 2.4- Term Limits for County Commissioners	05/12/2022**
18	Victor Luebker	04/28/2022	05/12/2022	Amend Section 5.2- Recall	05/12/2022**
19	Blaise Trettis	04/29/2022	05/12/2022	Amend Section 5.2 Scrivener Error	05/12/2022**
20	Gabriel Jacobs Kierstein	04/29/2022	05/12/2022	Amend Article 7.4.1- Addition of subsection 3	05/12/2022**
21	Matt Nye	05/02/2022	05/12/2022	Amend Article 8 by adding Section 8.2	05/12/2022**
22	Matt Nye	05/02/2022	05/12/2022	Revise Citizen Advisory Process	05/12/2022**
23	Matt Nye	05/02/2022	05/12/2022	Amend Article 8 Section 8.1	05/12/2022**
24	Jordin Chandler	05/02/2022	05/12/2022	Add New Section 1.9 to Article 1-Establish Workforce Housing Trust Fund	05/12/2022**

Denotes Removed from Consideration by Commission

** Denotes Public Hearing Announced

Meeting Date
05/12/2022



AGENDA	
Section	Public Hearing 2
Item No.	Proposal #1

2021-2022

Charter Review Commission Agenda Report

SUBJECT: AMEND THE HOME RULE CHARTER OF BREVARD COUNTY TO MAKE IT EVEN MORE CLEAR THAT A SUPERMAJORITY VOTE OF THE BOARD OF COUNTY COMMISSIONERS WHICH IMPOSES AN AD VALOREM TAX INCREASE WHICH EXCEEDS THE CHARTER CAP AMOUNT DOES NOT BECOME THE BASELINE AMOUNT OF TAXATION IN THE FOLLOWING YEARS.

Petitioner:

Blaise Trettis

Requested Action:

Blaise Trettis, member of the 2021-22 Charter Review Commission, proposes that the following underlined words be added to section 2.9.3.1 (c) and section 2.9.3.1 (d) of the Brevard County Charter.

Summary Explanation & Background:

Add to Section 2.9.3.1 (c) and 2.9.3.1 (d) Limitations on growth in ad valorem tax revenues.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year. If a supermajority of the Board of County Commissioners imposes an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), then the next year's calculation of the allowable increase in ad valorem tax revenue permissible under paragraph (a) and (b) shall use the revenues received in the prior year when there was no exceedance of the limitation on growth in ad valorem tax revenue in paragraphs (a) and (b).

In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraphs (a) and (b) of this subsection, the Board of County Commissioners shall exclude from the anticipated revenues ad valorem tax revenues for the previous year which exceeded the limitation on the rate of growth in ad valorem tax revenue of paragraphs (a) and (b) and all revenue changes from the following kinds of property not appearing on the previous year's roll: (1) new construction; (2) additions to or demolitions in whole or in part of existing construction; (3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation); and (4) in the case of municipal service taxing units or districts, any properties added since the previous year's roll by reason of boundary changes.

Exhibits Attached: **See Attached Proposal**

Staff Contact: Melissa Brandt
Phone Number : 321-301-4438

Email:
melissa.brandt@brevardfl.gov

Department: Charter Review Commission

PROPOSAL TO AMEND BREVARD COUNTY CHARTER TO MAKE IT EVEN MORE CLEAR THAT A SUPERMAJORITY VOTE OF THE BOARD OF COUNTY COMMISSIONERS WHICH IMPOSES AN AD VALOREM TAX INCREASE WHICH EXCEEDS THE CHARTER CAP AMOUNT DOES NOT BECOME THE BASELINE AMOUNT OF TAXATION IN FOLLOWING YEARS.

Blaise Trettis, member of the 2021-22 Brevard County Charter Review Commission, proposes that the following underlined words be added to section 2.9.3.1.(c) and section 2.9.3.1.(d) of the Brevard County Charter:

- (c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year. If a supermajority of the Board of County Commissioners imposes an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), then the next year's calculation of the allowable increase in ad valorem tax revenue permissible under paragraph (a) and (b) shall use the revenues received in the prior year when there was no exceedance of the limitation on growth in ad valorem tax revenue in paragraphs (a) and (b).

- (d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraphs (a) and (b) of this subsection, the Board of County Commissioners shall exclude from the anticipated revenues ad valorem tax revenues for the previous year which exceeded the limitation on the rate of growth in ad valorem tax revenue of paragraphs (a) and (b) and all revenue changes from the following kinds of property not appearing on the previous year's roll: (1) new construction; (2) additions to or demolitions in whole or in part of existing construction; (3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation); and (4) in the case of municipal service taxing units or districts, any properties added since the previous year's roll by reason of boundary changes.

1. ACTION OF BOARD OF COUNTY COMMISSIONERS NECESSITATING PROPOSAL

On July 23, 2019, a supermajority of the Board of County Commissioners (Board) approved the imposition of ad valorem tax increase in the next fiscal year 2019-20 for law enforcement municipal services taxing units which exceeded the rate increase limitation of section 2.9.3.1. (b) of the Brevard County Charter, commonly known as the Charter cap.

In the county's following fiscal year 2020-21, the Board of County Commissioners took the position that the excess ad valorem revenue of 2019-20 established the baseline for purposes of calculating the following year's budget, thereby causing the supermajority critical need/emergency finding of 2019-20 and its excess taxation in excess of the Charter cap to remain in place in perpetuity.

In December 2019, then Clerk of Court Scott Ellis sued the Board of County Commissioners seeking a court order which would prohibit the Board from using the 2019-20 critical need ad valorem tax revenue as the baseline revenue for fiscal year 2020-21. *See* Brevard County Circuit Court case number 05-2019-CA-058736-XXXX-XX.

The Circuit Court did not decide the merits of the case. The Circuit Court dismissed the lawsuit, ruling that Clerk of Court Scott Ellis did not have legal standing to sue the Board. Because of the dismissal on procedural grounds, the merits of the lawsuit was not decided.

2. ORIGIN OF THE LANGUAGE OF PROPOSAL

Though the lawsuit by former Clerk of Court Ellis was eventually dismissed, the Board of County Commissioners, through the County Attorney, argued the merits of the lawsuit in the Circuit Court. The Board argued that the Brevard County Charter does not prohibit the Board from using ad valorem tax revenue which exceeds the Charter cap as the baseline ad valorem revenue for the next fiscal year. The Board argued that for former Clerk of Court Ellis to prevail in the lawsuit, the wording of the Brevard County Charter would need to be amended by Charter amendment to add language to sections 2.9.3.1.(c) and 2.9.3.1.(d). In the lawsuit, the Board advised the Court of the language which the Board argued would be needed to be added to sections 2.9.3.1.(c) and 2.9.3.1.(d) to make it perfectly clear that the ad valorem tax revenue which exceeds the Charter cap amount cannot be used as the baseline ad valorem tax revenue amount for the following year. The Board argued as follows that this language would need to be added to the Charter:

“Lastly, as will be discussed *infra*, the Plaintiff has failed to plead any imminent and probable conduct warranting an injunction, as the Plaintiff has an alternative adequate remedy at law, namely a charter amendment . . . Thus, the Brevard County Charter is clear and precise as to what items shall be excluded from the anticipated revenue changes. Moreover, Section 2.9.3.1(d) of the Brevard County Charter contains no language stating that ad valorem tax revenues for the previous year must be reduced by any increase in revenues received over the Charter Cap as proposed by the

Plaintiff. More importantly, the Brevard County Charter does not state in the event the Charter Cap is exceeded under 2.9.3.1(c), the next year's calculation of the allowable increase shall use the revenues received in the prior year when there was no exceedance of the Charter Cap.”

See Board's Motion to Dismiss Plaintiff's Complaint filed February 19, 2020 at pgs. 5, 11.

The proposed amendment by Blaise Trettis to the Brevard County Charter seeks amendment of the Brevard County Charter as suggested by the Board using the language suggested by the Board of County Commissioners.

3. REASON FOR PROPOSAL

On November 4, 2008, the Brevard County Charter was amended by a vote of the people to impose limitation on the annual growth in ad valorem tax revenue. As amended, the Charter caps annual ad valorem tax increase at the lesser of three percent or the percentage change in the Consumer Price Index unless a supermajority of the Board of County Commissioners makes a finding – valid for a single budget year – that an emergency or critical need necessitates exceeding this limitation. In making this 2008 amendment to the Charter, the people of Brevard County intended that the critical need/emergency tax revenue which exceeds the Charter cap is to last for only one budget year and not become the baseline ad valorem tax revenue for following years. The language of the 2008 amended Charter reflects this intent in the following italicized language in section 2.9.3.1.(c):

- (c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. *The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year.*

The excess tax revenue imposed by a supermajority of the Board is dependent on the finding of facts of the Board of critical need or emergency which necessitates the excess taxation. By the language of section (c), when the finding of facts of the Board expires at the end of a single budget year, the Board's authority under section (c) to exceed the Charter cap ad valorem revenue expires in the absence of another finding of fact by the Board of critical need or emergency.

On July 23, 2019, a supermajority of the Board of County Commissioners approved the imposition of ad valorem tax increase in the next fiscal year 2019-20 for law enforcement municipal services taxing units which exceeded the rate increase limitation of section 2.9.3.1. (b) of the Brevard County Charter.

Despite the intent of the 2008 Charter cap amendment to limit the excess critical need/emergency taxation to one budget year, in fiscal years 2020-21 and 2021-22, the Board disregarded the intent of the 2008 amendment to the Charter by making the 2019-20 excess critical need/emergency tax revenue the baseline ad valorem tax revenue.

The Board of County Commissioners, in its litigation against former Clerk of Court Scott Ellis, has argued that the Charter must be amended to make it clear that critical need/emergency excess ad valorem tax revenue lasts for only one budget year in the absence of another supermajority vote of the Board to impose ad valorem taxes which exceed the Charter cap. The Board, in the litigation, has stated what language should be added to the Charter to make the Charter perfectly clear that the excess critical need/emergency taxation can only last one budget year. The above proposal by Blaise Trettis to amend sections 2.9.3.1.(c) and 2.9.3.1.(d) accepts the Board's suggestion to amend the Charter and uses the language suggested by the Board to do so.

SERVICE OF PROPOSAL

This proposal was sent by e-mail on January 3, 2022, to the members of the Brevard County Charter Review Commission and to: Melissa Brandt at Melissa.Brandt@brevardfl.gov; Jim Liesenfelt at jim.liesenfelt@brevardfl.gov; and to Paul R. Gougelman, attorney for the Brevard County Charter Review Commission.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER: Proposal 2-Amended 03-31-2022

SUBJECT:

SECOND PROPOSAL TO AMEND BREVARD COUNTY CHARTER
TO ADD RECALL ELECTION OF SCHOOL BOARD MEMBERS

PETITIONER CONTACT:

Blaise Trettis (proponent), member of the 2021-2022 Charter Review Commission

REQUESTED ACTION:

RECALL ELECTION OF SCHOOL BOARD MEMBERS

SUMMARY EXPLANATION & BACKGROUND:

See Proposal Attached

Staff Contact:

Melissa Brandt

Telephone Number:

(321) 301-4438

Email Address:

Melissa.Brandt@brevardfl.gov

SECOND PROPOSAL TO AMEND BREVARD COUNTY CHARTER
TO ADD RECALL ELECTION OF SCHOOL BOARD MEMBERS

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes that the following RECALL ELECTION OF SCHOOL BOARD MEMBERS be added to the Brevard County Charter:

RECALL ELECTION OF SCHOOL BOARD MEMBERS

(1) APPLICATION; DEFINITION.— Any member of the school board may be removed from office by the electors of the school board district by recall election as provided herein. Where used in this section, the term “district” shall be construed to mean:

A) the district school board member residence area if the electors of Brevard County have voted for single-member school board representation within the residence area of the district in an election held in accordance with section 1001.362 (3)-(10) Florida Statutes (2021) or subsequently re-numbered statute; or

B) the district school board member residence area if the Brevard County Home Rule Charter provides that school board members shall be elected on a single-member representation basis in which school board members shall be elected only by the qualified electors who reside in the same school board residential area as the school board candidate;

C) the entirety of Brevard County as provided in section 1001.30 Florida Statutes (2021) and any subsequently re-numbered statute if election of school board members is by vote of the qualified electors of the entire district in a districtwide vote, which is a countywide vote, as provided in section 1001.361 Florida Statutes (2021) and any subsequently re-numbered statute.

(2) RECALL PETITION.—

(a) *Petition content.*—A petition shall contain the name of the school board member sought to be recalled and a statement of grounds for recall. The stated grounds for recall from office are limited solely to those specified in paragraph (d). If malfeasance is the stated ground for recall, then the statement of grounds may not exceed 200 words. If a vote or votes of the school board member sought to be recalled at a school board meeting or meetings is the stated ground for recall, then there is no numerical word limit to the statement of grounds. If more than one member of the school board is sought to be recalled, a separate recall petition shall be prepared for each member sought to be recalled.

(b) *Requisite signatures.*— The petition shall be signed by at least 5 percent of the total number of registered electors of the district as of the preceding general election. All

signatures shall be obtained as provided in paragraph (e) within a period of 30 days and all signed and dated petition forms shall be filed at the same time no later than 30 days after the date on which the first signature is obtained on the petition.

(c) *Recall committee.*—Electors of the district making charges contained in the statement of grounds for recall, as well as those signing the recall petition, shall be designated as the recall committee. A specific person shall be designated in the petition as chair of the committee and this person shall act for the committee. The recall committee and the school board member sought to be recalled are subject to the provisions of chapter 106.

(d) *Grounds for recall.*—The grounds for removal of a school board member shall , be limited to the following and must be contained in the petition:

1. Malfeasance;

2. Not more than 3 votes by the school board member on a motion or motions made at a school board meeting or meetings whether the meeting or meetings were a regularly scheduled meeting, special meeting, an emergency meeting or any other designation of school board meeting. In the petition, the words of the motion or motions made at the school board meeting or meetings shall be stated word-for-word as is reasonably determinable. The petition shall not contain the preamble to the motion or motions if any preamble preceded the motion or motions. The petition shall state the school board member’s vote or votes on the motion or motions was yes or no.

(e) *Signature process.*—Only electors of the district are eligible to sign the petition. Each elector signing a petition shall sign and date his or her name in ink or indelible pencil. Each petition shall contain appropriate lines for each elector’s original signature, printed name, street address, city, county, voter registration number or date of birth, and date signed. The form shall also contain lines for an oath, to be executed by a witness who is to verify the fact that the witness saw each person sign the counterpart of the petition, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the petition was signed in the presence of the witness on the date indicated.

(f) *Filing of signed petitions.*—All signed petition forms shall be filed at the same time, no later than 30 days after the date on which the first signature is obtained on the petition. The person designated as chair of the committee shall file the signed petition forms with the Brevard County Clerk of Court, hereinafter referred to as “clerk.” The petition may not be amended after it is filed with the clerk.

(g) *Verification of signatures.*—

1. Immediately after the filing of the petition forms, the clerk shall submit such forms to the county supervisor of elections. No more than 30 days after the date on which all

petition forms are submitted to the supervisor by the clerk, the supervisor shall promptly verify the signatures in accordance with section 99.097 Florida statutes, and determine whether the requisite number of valid signatures has been obtained for the petition. The committee seeking verification of the signatures shall pay in advance to the supervisor of elections the sum of 10 cents for each signature checked or the actual cost of checking such signatures, whichever is less.

2. Upon filing with the clerk, the petition and all subsequent papers or forms required or permitted to be filed with the clerk in connection with this section must, upon request, be made available in alternative formats by the clerk.

3. If the supervisor of elections determines that the petition does not contain the requisite number of verified and valid signatures, the clerk shall, upon receipt of such written determination, so certify to the Brevard County Board of County Commissioners and file the petition without taking further action, and the matter shall be at an end. No additional names may be added to the petition, and the petition shall not be used in any other proceeding.

4. If the supervisor of elections determines that the petition has the requisite number of verified and valid signatures, then the procedures outlined in subsection (3) must be followed.

(3) RECALL PETITION AND DEFENSE.—

(a) *Notice.*—Upon receipt of a written determination that the requisite number of signatures has been obtained, the clerk shall at once serve upon the person sought to be recalled a certified copy of the petition. Within 5 days after service, the person sought to be recalled may file with the clerk a defensive statement of not more than 200 words.

(b) *Content and preparation.*—Within 5 days after the date of receipt of the defensive statement or after the last date a defensive statement could have been filed, the clerk shall prepare a document entitled Recall Petition and Defense. The Recall Petition and Defense shall consist of the recall petition, including copies of the originally signed petitions and counterparts. The Recall Petition and Defense must contain lines which conform to the provisions of paragraph (2)(e), and the defensive statement or, if no defensive statement has been filed, a statement to that effect. The clerk shall make copies of the Recall Petition and Defense which are sufficient to carry the signatures of 30 percent of the registered electors of the district. Immediately after preparing and making sufficient copies of the Recall Petition and Defense, the clerk shall deliver the copies to the person designated as chair of the committee and take his or her receipt therefor.

(c) *Requisite signatures.*—Upon receipt of the Recall Petition and Defense, the committee may circulate them to obtain the signatures of 15 percent of the electors of the

district. All signatures shall be obtained and all signed petition forms filed with the clerk no later than 60 days after delivery of the Recall Petition and Defense to the chair of the committee.

(d) *Signed petitions; request for striking name.*—The clerk shall assemble all signed petitions, check to see that each petition is properly verified by the oath of a witness, and submit such petitions to the county supervisor of elections. Any elector who signs a recall petition has the right to demand in writing that his or her name be stricken from the petition. A written demand signed by the elector shall be filed with the clerk, and, upon receipt of the demand, the clerk shall strike the name of the elector from the petition and place his or her initials to the side of the signature stricken. However, a signature may not be stricken after the clerk has delivered the Recall Petition and Defense to the supervisor of elections for verification of the signatures.

(e) *Verification of signatures.*—Within 30 days after receipt of the signed Recall Petition and Defense, the supervisor of elections shall determine the number of valid signatures, purge the names withdrawn, and certify whether 15 percent of the qualified electors of the district have signed the petitions. The supervisor of elections shall be paid by the persons or committee seeking verification the sum of 10 cents for each name checked.

(f) *Reporting.*—If the supervisor of elections determines that the requisite number of signatures has not been obtained, the clerk shall, upon receipt of such written determination, certify such determination to the Brevard County Board of County Commissioners and retain the petitions. The proceedings shall be terminated, and the petitions shall not again be used. If the supervisor of elections determines that at least 15 percent of the qualified electors of the district signed the petition, the clerk shall, immediately upon receipt of such written determination, serve notice of that determination upon the person sought to be recalled and deliver to the Brevard County Board of County Commissioners a certificate as to the percentage of qualified electors of the district who signed.

(4) **RECALL ELECTION.**— The chief judge of the judicial circuit in which the district is located shall fix a day for holding a recall election for the removal of the school board member or school board members. Any such election shall be held not less than 30 days or more than 60 days after the clerk delivers to the Brevard County Board of County Commissioners the certificate as to the percentage of qualified electors of the district who signed the Recall Petition and Defense and at the same time as any other primary, general or special election held within the period; but if no such election is to be held within that period, the judge shall call a special recall election to be held within the period aforesaid.

(5) BALLOTS.—The ballots at the recall election shall conform to the following: With respect to each person whose removal is sought, the question shall be submitted: “Shall _____ be removed from the office of school board for Brevard County by recall?” Immediately following each question there shall be printed on the ballots the two propositions in the order here set forth:

“ (name of person) should be removed from office.”

“ (name of person) should not be removed from office.”

(6) FILLING OF VACANCIES; SPECIAL ELECTIONS.—

(a) When a school board member is removed from office by recall election, the school board member’s term of office expires when the Brevard County Canvassing Board certifies the recall election results. When a school board member is removed from office by recall election, candidates to succeed them for the unexpired terms shall be voted upon at a special election called by the chief judge of the judicial circuit in which the district is located not less than 30 days or more than 60 days after the expiration of the recall election. The qualifying period for purposes of this section shall be established by the chief judge of the judicial circuit after consultation with the clerk. Any candidate seeking election to fill the unexpired term of a recalled school board member shall reside in the school board residence area represented by the recalled school board member and qualify for office in the manner required by law.

(7) If Article IX, section 4 of the Florida Constitution provides that school board members are elected in a nonpartisan election, then each school board candidate receiving the highest number of votes for each office in the special recall election shall be declared elected to fill the unexpired term of the recalled school board member. The school board candidate elected to office in the special recall election shall begin his or her term of office seven days after the Brevard County Canvassing Board certifies the recall election results. The term of office of the school board member elected in a special recall election expires on the same date as that of the school board member who was recalled from office by recall election.

(8) Candidates seeking election to fill a vacancy created by the removal of a school board member shall be subject to the provisions of chapter 106 Florida statutes.

(9) When a school board member is removed from office by recall election and Article IX, section 4 of the Florida Constitution provides that school board members are elected in a partisan election, candidates to succeed them for the unexpired terms shall be voted upon in a primary election called by the chief judge of the judicial circuit in which the district is located not less than 30 days or more than 60 days after the expiration of the recall election. The qualifying period for the primary election shall be established by the chief judge of the

judicial circuit after consultation with the clerk. The general election following the primary election shall be conducted 4 weeks to the day after the primary election. Any candidate seeking election to fill the unexpired term of a recalled school board member shall reside in the single-member school board residence area represented by the recalled school board member and qualify for office in the manner prescribed by law. The school board candidate elected to office in the special recall election shall begin his or her term of office seven days after the Brevard County Canvassing Board certifies the recall election results. The term of office of the school board member elected in a special recall election expires on the same date as that of the school board member who was recalled from office by recall election.

(10) If Article IX, section 4 of the Florida Constitution provides that school board members are elected by partisan election, then the procedure of this subsection for partisan primary election and partisan general election of school board members to fill vacancies caused by the recall election and removal of school board members may only be done starting in 2024 with the primary election held for such school board candidates on or after the date of the presidential primary election in 2024.

(11) RETENTION OF PETITION.—The clerk shall preserve in his or her office all papers comprising or connected with a petition for recall for a period of 4 years after they were filed.

(12) OFFENSES RELATING TO PETITIONS.—No person shall impersonate another, purposely write his or her name or residence falsely in the signing of any petition for recall or forge any name thereto, or sign any paper with knowledge that he or she is not a qualified elector of the district. No person shall employ or pay another to accept employment or payment for circulating or witnessing a recall petition.

1. REASON FOR PROPOSAL

Florida statutes do not provide for the recall election of school board members. Twenty-two states allow for the recall of school board members, but Florida does not. <https://news.ballotpedia.org/2021/08/04/22-states-allow-for-the-recall-of-school-board-members/>. However, since 1974 Florida statute section 100.361 has prescribed the procedure to be followed for the recall election of city council members, city mayor and county commissioners.

The above proposal to add recall election of school board members to the Brevard County Charter substantially tracks the language of section 100.361 Florida statutes. Proponent submits that the citizens of Brevard County should have the ability to recall and remove school board members from office. The need for procedure for recall of school board members became painfully clear in August 2021 when three Brevard County school board members voted to require every pre-K-12 student, employee, visitor, vendor, or other person to wear a face mask at all times while indoors on school property. This mandatory face mask policy of the Brevard

County School Board was done in defiance of Governor Ron DeSantis' executive order which prohibited this face mask policy.

Another reason for this proposal is the transgender policy of the Brevard County School Board which applies to school children in kindergarten through twelfth grade and which: 1) permits boys to dress as girls; 2) requires school employees, teachers, to call children, who say that they are transgender, pronouns and names that the child tells the teachers to call him or her. For example, a 9 year old girl by the name of Rebecca can order her teachers to refer to her as Johnathan and order her teachers to refer to her with pronoun he, him, his; 3) requires schools to make student identification badges which have the false name of the child; 4) requires schools to allow boys to use girls' restrooms, use the girls' locker rooms and girls' shower; 5) requires schools to allow girls to use boys' restrooms, use the boys' locker room and boys' shower; 6) requires teachers, school counselors, to not inform the child's parents or guardian that the student, while at school, is expressing interest in "transitioning" to the opposite sex and/or that the child dresses as the opposite sex, is called by a false name by teachers, and is trying to assume the identity, mannerisms, traits, of a child of the opposite sex. This part of the Brevard County School Board transgender policy violates the Parental Rights in Education law passed by the Florida Legislature in the 2022 legislative session and signed into law by Governor Ron DeSantis on March 28, 2022; 7) provides website information to children to "help" them to decide to "transition" to the opposite sex.

SERVICE OF PROPOSAL This proposal was sent by e-mail on March 31, 2022 to the members of the Brevard County Charter Review Commission and to: Melissa Brandt at Melissa.Brandt@brevardfl.gov; Jim Liesenfelt at jim.liesenfelt@brevardfl.gov; and to Paul R. Gougelman, attorney for the Brevard County Charter Review Commission.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 5 - Public Hearing 2

SUBJECT:

PROPOSAL TO REPEAL FROM CHARTER THE PANEL OF THREE ATTORNEYS WHO REVIEW CHARTER AMENDMENT PROPOSALS BY CITIZEN PETITION AND BY CHARTER REVIEW COMMISSION

PETITIONER CONTACT:

Blaise Trettis(proponent),member,2021-22 Brevard County Charter Review Commission

REQUESTED ACTION:

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following changes to sections 7.3.2 Amendment by petition; 7.3.2.2; 7.3.2.3; 7.3.2.4; 7.4 CHARTER REVIEW; 7.4.1 Independent review of proposed charter amendments; 7.4.2, in which strike-through of words constitutes the repeal of the

SUMMARY EXPLANATION & BACKGROUND:

See Attached Proposal

Staff Contact: Melissa Brandt
Telephone Number: (321) 301-4438
Email Address: Melissa.Brandt@brevardfl.gov

PROPOSAL TO REPEAL FROM CHARTER THE PANEL OF THREE ATTORNEYS WHO
REVIEW CHARTER AMENDMENT PROPOSALS BY CITIZEN PETITION AND BY
CHARTER REVIEW COMMISSION

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following changes to sections 7.3.2 Amendment by petition; 7.3.2.2; 7.3.2.3; 7.3.2.4; 7.4 CHARTER REVIEW; 7.4.1 Independent review of proposed charter amendments; 7.4.2, in which strike-through of words constitutes the repeal of the words and underlined words are added words.

7.3.2 Amendment by petition

Amendments to this Charter may be proposed by a petition signed by at least four percent (4%) of the electors from each County Commission District, provided that any such amendment shall embrace but one subject and matter directly connected therewith and is not inconsistent with the Florida Constitution, general law, special law approved by vote of the electors, and this Charter. ~~in the manner set forth in subsections 7.3.2.1 through 7.3.2.4 below.~~³ The sponsor of an amendment shall, prior to obtaining signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signature will be affixed. The procedures for initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed.

7.3.2.1

~~Each amendment shall embrace but one subject and matter directly connected therewith. The amendment shall not extend to existing budgets, existing debt obligations, existing capital improvement obligations, salaries of non-elected County officers and employees, the collection of taxes or rezoning of less than five per cent (5%) of the total land area of the County.~~

7.3.2.2

~~The sponsor of the measure shall register as a political committee as required by general law, and shall submit a petition setting forth the ballot title, substance and text of the proposed amendment to the Supervisor of Elections. The sponsor must then obtain the signatures on the petition of at least 1% of the electors from each County Commission district and then resubmit the signed petitions to the Supervisor of Elections for verification that the electors signing the petition are qualified voters. When the Supervisor of Elections has verified the signatures, the Supervisor shall report such verification to the Board of County Commissioners.~~

³ The wording of section 7.3.2 presented here is a combination of the amendment wording set forth in County Commission Corrected Resolutions 2000-268 and 2000-269, both of which received referendum approval. The precise language of the two resolutions as approved by the voters has been combined in this form by the editors in an attempt to preserve the actual text as well as the intent and meaning of the text in both approved amendments.

7.3.2.3

~~Once the signatures are verified, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.~~

7.3.2.4.⁴

~~If at least two members of the panel find that the proposed amendment is consistent with the Florida Constitution, general law and this Charter, then such consistency shall be presumed and the petition shall be returned to the sponsor who must thereafter obtain enough signatures from electors in each county commission district to bring the total number of petition signatures to at least 4% of the qualified electors in each county commission district. The verification procedures for signatures on initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed.~~

~~Since this charter does not provide the Board, or the Petitioner with an avenue to determine whether proposed amendments are consistent with the State Constitution or general law, the proposed amendment will be governed by Section 1.3 and Section 1.6 of this charter, and the proposed amendment will be placed on the ballot for approval or rejection. The sponsor of an amendment shall, prior to obtaining signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signature will be affixed. The procedures for initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed. The power to amend this Charter by initiative shall not extend to existing budgets, existing debt obligations, existing capital improvement programs, salaries of non-elected County officers and employees, the collection of taxes, or the rezoning of less than five percent (5%) of the total land area of the County.~~

Section 7.4 Charter Review

Not later than July 1 of the year 1997 and of every sixth year thereafter, the Board of County Commissioners shall appoint a Charter Review Commission to review the Charter of the County. Each Charter Review Commission shall consist of fifteen (15) persons, with not less than two (2) members residing in each Commission district. The Commission shall otherwise be appointed in the manner provided by law for the appointment of charter commissions in counties without charters. The Commission shall be funded by the Board of County Commissioners and shall be known as the "Brevard County Charter Review Commission." It shall, within one (1) year from the date of its first meeting, present, in ballot-ready language, to the Board of County

⁴ The editors have renumbered this subsection from (c), which is the designation given to this paragraph in County Commission Resolution 2000-268, to 7.3.2.4, which is referenced at the end of the first sentence of section 7.3.2 in Corrected Resolution 2000-268. This change corrects an apparent scrivener's error in the text of the original Corrected Resolution 2000-268 in which it appears that sub-paragraph (c) should have been numbered as subsection 7.3.2.4.

~~Commissioners~~ Brevard County Supervisor of Elections for placement on the ballot its ~~recommendations~~ proposals for amendment of the Charter in which each proposal embraces one subject and matter directly connected therewith and is not inconsistent with the Florida Constitution, general law, special law approved by vote of the electorate, and this Charter its recommendation that no amendment is appropriate or shall inform the Supervisor of Elections that no proposals are made by the Charter Review Commission. If amendment is to be ~~recommended~~ proposed, the Charter Commission shall conduct three (3) public hearings, at intervals of not less than ten (10) days, immediately prior to the transmittal of its recommendations to the ~~Board of County Commissioners~~ Supervisor of Elections. The ~~Board of County Commissioners~~ Supervisor of Elections shall schedule a referendum on the proposed charter amendments concurrent with the next general election. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election. The Charter Review Commission may remain in existence until the general election for purposes of conducting and supervising education and information on the proposed amendments.

~~7.4.1 Independent Review of Proposed Charter Amendments~~

~~1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.~~

~~2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.~~

7.4.21 Analysis of fiscal impact of proposed charter amendment

The Charter Review Commission shall obtain an analysis of the fiscal impact of a proposed charter amendment prior to transmittal of the proposed charter amendment to the ~~County Commission~~ Supervisor of Elections. (Newly adopted 11-2-10)

REASON FOR PROPOSAL

The Brevard County Charter provides that proposed changes to the Charter by citizen petition and by the Charter Review Commission shall be reviewed by a combination of three practicing attorneys or by combination of three active or retired attorneys or retired judges to determine whether the proposal embraces one subject and is consistent with the Florida Constitution, general law, and the Charter. The Board of County Commissioners chooses this three attorney panel and pays the lawyers for their legal opinions. If at least two of the three attorneys opine that the proposal is consistent with the Florida Constitution, general law and the Charter, then the County Commission presumably allows the proposal to be put on the ballot for vote by the electorate. Although not explicitly stated in the Charter, there is the inference that the Board of County Commissioners will not put on the ballot a proposal which fails to get at least two attorneys' "approval" of the proposal.

Proponent submits that the three attorney panel is undemocratic and is rife with conflict of interest and subject to abuse of the Charter revision process by the Board of County Commissioners. Of the nineteen charter counties in Florida, Brevard County is the only one which has this undemocratic panel of attorneys. In the other eighteen charter counties, citizen petition proposals and charter review commission proposals go to the ballot after they get enough valid petitions signed or get enough passing votes of the charter review commission without having to be reviewed and approved by a panel of attorneys.

The conflict of interest that the three attorney panel can have is exemplified by the pending proposal before the Charter Review Commission of proposal 1, the "charter cap" language in the Charter. At least four Brevard County Commissioners are opposed to the proposal to change the charter cap language as proven by the Board's on-going lawsuit in Brevard Circuit Court against Clerk of Court Rachel Sadoff. The Board's position in the lawsuit is that a supermajority vote of the Board to exceed the charter cap ad valorem taxation amount results in perpetual taxation that exceeds the charter cap limitation. The proposal before the Charter Review Commission in proposal 1 is aligned completely with the Clerk of Court's position in her lawsuit against the Board.

The Board of County Commissioners has incentive, motive, to prevent the charter cap proposal from getting placed on the ballot – especially considering that the charter cap was approved by 73% of the electorate in 2008 and that its placement on the 2022 general election ballot will likely result in overwhelming passage. However, under the Charter language, it will be the Board of County Commissioners who will choose the three attorneys to opine whether the proposal will get their approval for placement on the ballot. These three lawyers will be paid by the Board and will know what result is wished by their employer, the Board of County Commissioners, in regard to proposal 1, the charter cap proposal. The conflict of interest of the Board and of the three lawyers is blatant. It would be likely that the three lawyers chosen for the three lawyer panel have been paid for legal work for the Board in the past and would like to continue the business arrangement. If a lawyer or lawyers chosen by the Board for the veto panel has not done legal work previously for the Board, then the lawyer or lawyers would likely want to start such a business arrangement with the Board. These financial, business, conflicts of interest hardly make the three attorney panel an "independent review" panel as it is called in the title to section 7.4.1.

The potential for abuse of fairness and public confidence in county government in this unseemly process is not mitigated by the wording of the Charter section 7.4.1.(2) which says that the Board “shall” place the proposal on the ballot if at least two lawyers approve the proposal. There is case law which holds that the word “shall” can be interpreted to mean “may” or be “discretionary” or “permissive”. See, for example, *Walker v. Bentley*, 678 So. 2d 1265 (Fla. 1996); *Rich v. Ryals*, 212 So. 2d 641 (Fla. 1968); *White v. Means*, 280 So. 2d 20 (Fla. 1st DCA 1973); *Lomelo v. Mayo*, 204 So. 2d 550 (Fla. 1st DCA 1967).

The Board of County Commissioners could rely on the above case law in deciding to not place a proposal on the ballot even when two or three lawyers approve the proposal, taking the position that the Board’s decision to place the proposal on the ballot is discretionary to the Board. If one were to doubt that the Board of County Commissioners would actually take the position that the word “shall” means “may” to keep a proposal from being placed on the ballot, then one should remember the great lengths that the Board took in 1999 to keep county commissioner term limits from being placed on the ballot. The history is described in Commission attorney Paul Gougelman’s January 22, 2022 memorandum on county commissioner term limits. In 1999, the Board of County Commissioners rejected a term limit ballot proposal after 16,000 signatures were gathered to place the issue before the voters. A Home Rule Charter Committee had to sue the Board in Circuit Court to force the issue to be placed on the ballot. The electorate approved the term limit proposal by 77%.

The language of section 7.4.1. infers that the Board of County Commissioners will not or cannot place a proposal on the ballot if only one or none of the three lawyers approved the proposal. However direct this inference is, it is only an inference. The section does not say that the Board of County Commissioners cannot place a proposal on the ballot when it gets approval of only one lawyer. Thus, when the Board of County Commissioners agrees with a proposal and wants the proposal on the ballot, the Board of County Commissioners could decide that the inference can be overcome by the Board’s decision to put the proposal on the ballot even though only one or none of three lawyers approves the proposal. Contrarily, if a proposal approved by just one lawyer is a proposal that the Board of County Commissioners does not want to go to the ballot, then the Board of County Commissioners could refuse to place the proposal on the ballot based on the inference in section 7.4.1. The result from all scenarios described above is that the Board of County Commissioners could act as the gatekeeper to the ballot of all proposals, allowing proposals of which it approves to go to the ballot but preventing proposals of which it disapproves from being placed on the ballot. As stated previously, none of the other 18 charter counties in Florida vests such authority in the Board of County Commissioners over Charter Review Commission and citizen petition proposals.

To prevent the Board of County Commissioners from having authority to decide which proposals are to be allowed to be placed on the ballot, proponent submits that the three attorney panel should be repealed in Brevard County’s Charter. Proponent submits that the proposals of the Charter Review Commission and by citizen petition should bypass the Board of County Commissioners entirely, as is done in the Sarasota County¹ Charter, and instead be given to the Brevard County Supervisor of Elections for placement on the ballot

¹ The Sarasota County Charter reads in relevant part at section 7.1: “Changes proposed under subsections (i), (ii), or (iii) shall be submitted to the voters at a special election to be held within sixty

Incorrect legal standard of review is in Charter. At sections 7.3.2.3; 7.3.2.4 and 7.4.1, the incorrect legal standard for permissible powers of charter self-government is included in the Charter. These three sections say that the three attorney panel is to determine if the proposed amendment “is consistent with the Florida Constitution, general law and this Charter.” Florida Constitution Article VIII, section 1(g) states the permissible scope of powers of county 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.”

Proponent submits that the Charter’s incorrect standard of legal review to be applied by the three lawyer panel is good reason to repeal the incorrect sections of the Charter. Proponent submits that there is a meaningful difference between the incorrect legal standard “consistent with” in the Charter and the correct legal standard of “not inconsistent with” set forth in the Constitution. “Consistent with” means showing steady conformity in character; whereas “not inconsistent with” means compatible with another part or not containing incompatible elements. The erroneous legal standard should be deleted from the Charter. It is noteworthy that section 7.3.1. Amendment by the Board of County Commissioners is the only Charter amendment method which states correctly the legal standard of review set forth in Article VIII, section 1(g), Florida Constitution, in that it correctly has the “not inconsistent with” language.

Fallibility of attorneys’ opinions. The Charter language makes the opinions of the three attorneys prone to error because there is no level of confidence or level of certainty or burden of persuasion that must be met by the attorney. If the Charter said that the attorneys’ opinion must be substantiated, predicated, on clear and convincing weight of legal authority, then the attorneys’ opinion could be considered with a good degree of reliability. But the Charter does not contain any degree of certainty that the attorneys must have to reach their opinions. The result is that the attorneys have no legal standard to reach to come to their opinions, which leads to subjective opinion predicated on indefinite legal concepts. For example, it may be not difficult for an attorney to identify Florida statutes which conflict with a Charter amendment proposal. But when a Charter amendment proposal does not conflict with state law but instead is in addition to state statutes, then the legal analysis applied in this scenario is somewhat complex and prone to resulting subjective opinion of the lawyer. The proneness to error of the reviewing lawyer and the free reign in their opinions because of the absence of a standard of certainty in the Charter should result in the repeal of the three attorney panel from the Charter.

Charter Commission has authority to retain additional attorneys, if it chooses, making three attorney panel not needed. Section 7.4 CHARTER REVIEW states, in part,

(60) days after filing of the proposed changes with the Supervisor of Elections, and such changes if approved at the election by the majority vote, shall become a part of this Charter. Changes proposed under subsection (iv) and filed with the Supervisor of Elections shall be submitted to the voters at a referendum election to be held concurrently with the next countywide election, and such changes, if approved at the election by a majority vote, shall become a part of the Charter. (Amended 9/10/2002.)”

that: “The Commission shall be funded by the Board of County Commissioners and shall be known as the ‘Brevard County Charter Review Commission.’” Proponent submits that the above language in the Charter authorizes the Charter Review Commission to hire lawyers in addition to Commission lawyer Paul Gougelman to apply the correct legal analysis to a proposed amendment. This spending authority of the Commission renders obsolete the three attorney panel of lawyers chosen by the Board of County Commissioners. The Commission’s ability to hire additional lawyers negates the conflict of interest and abuse of process that exists in the three attorney panel of lawyers hired and chosen by the Board of County Commissioners. For this reason the three attorney panel in the Charter should be repealed.

SERVICE OF PROPOSAL. This proposal was sent by e-mail by Blaise Trettis on February 25, 2022, to the members of the Brevard County Charter Review Commission and to: Melissa Brandt at Melissa.Brandt@brevardfl.gov; Jim Liesenfelt at jim.liesenfelt@brevardfl.gov; and to Paul R. Gougelman, attorney for the Brevard County Charter Review Commission.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 6- Public Hearing 2

SUBJECT:

Brevard County Charter Amendment-Right to Clean Water

PETITIONER CONTACT:

Michael Myjak, Indian River Lagoon Roundtable-mmyjak@yahoo.com

REQUESTED ACTION:

Recommended insertion in Article 5 of the Brevard County Charter, "Powers Reserved to the People,"
Section 5.7

SUMMARY EXPLANATION & BACKGROUND:

See Attached Executive Summary

Attachment I- Section 5.7

Attachment II-Does Brevard County have the legal authority to amend its charter to establish and enforce the right to clean water?

Staff Contact:

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Brevard County Charter Amendment - Right to Clean Water

Executive Summary

Brevard County residents and organizations respectfully request members of the Charter Review Commission (CRC) to consider amending the charter to ensure present and future generations are able to protect themselves and their interests from harm. The “Right to Clean Water” proposal creates a local cause of action for equitable (declaratory or injunctive) relief, which may include a “polluter pays” form of restorative relief. As the proposal’s ultimate design will depend on the will of the CRC members and public comments, [Attachment 1](#) is provided as a skeletal framework. [Attachment 2](#) provides the legal basis and argument that the County has the authority to enact this measure and that state preemption found in Fla. Stat. 403.412 (9)(a) does not apply.

This proposal starts off with the premise: **Brevard County has the power and duty to protect itself and its residents, businesses, visitors and economy from legalized harm.**

Legalized harm is caused by the action or inaction of federal and state governments, be it erratic definitions of health, harm, public interest, various scientific standards or environmental impact considerations or requirements; poor staffing, budgeting or resourcing decisions; substandard design or enforcement of basin action management plans or nutrient load limits; continued permitting of substandard or inappropriately located onsite septic systems; inappropriate use of fertilizers, herbicides; etc. Waters such as the Indian River Lagoon have suffered from and continue to be impacted by substandard but legal government harm. Missing from the current system is **the ability to effectively challenge such continued or planned harm**. We believe it is the people’s inherent right to question and stop such practices to better protect themselves, their families, their businesses, and their communities.

The problem isn’t a lack of strong environmental laws in Florida, nor is it due to a string of illegal pollution. The problem *set* is systemic and more like death by 1,000 papercuts, which is comprehensively difficult and expensive to remedy for large water bodies such as the Indian River Lagoon, much less to fully restore. To make sense of our hundreds-of-millions of taxpayer dollar investment, we must be able to establish a stopgap – a “do no (more) harm” mandate, and allow individuals, businesses and nonprofits to engage in the litigation to arrive at a better system. Courts will rule in equity, considering what’s possible, what harm is preventable, and declare certain actions or policies of inaction to be in violation of the Right to Clean Water. Courts may award declaratory or injunctive relief, to either prevent harm or, if sufficient evidence is presented, to restore waters to their condition just before the harm occurred. Outside of attorney’s fees and court costs (which can be awarded to prevailing plaintiffs), any money that changes hands will be applied (earmarked) directly to the restoration of waters. Courts have the power to ensure government agencies do what the law says they should do.

A no-cost, non-governmental solution to restore ecological balance for all to enjoy is a win-win opportunity. The only opponents to such a measure will be those who benefit and wish to continue to benefit from exacting harm on Brevard’s shared natural resources under the current system, and their banner will likely point to some property rights fear. This proposal only strikes at legalized “rights” to pollute or otherwise irresponsibly degrade waters, infringing on the rights and substantial interests of everyone else. This proposal provides Brevard County a way to pivot back to good while balancing all competing interests through courts of equity, justice and fairness.

Please consider this proposal and the hope it may bring those living, working and playing in Brevard County. It presents a chance for our leaders to show all other communities and states that it’s possible to have a thriving economy AND a thriving ecology, balanced for present and future generations, due to a small systemic tweak to establish and ensure a Right to Clean Water.

With esteem and anticipation,

(Please see a separate page for the current list of signatories.)

Recommended insertion in Article 5 of the Brevard County Charter, "Powers Reserved to the People,"

Section 5.7 - Right to Clean Water

5.7.1. To protect substantial individual, group, economic, and environmental interests, residents that live in and governmental and nongovernmental organizations that operate in Brevard County have the right to clean water against any form of governmental harm and to seek enforcement and equitable relief from a violation of this right in a court of competent jurisdiction. Attorney's fees and costs of litigation shall be awarded to prevailing plaintiffs.

5.7.2. Definitions

Clean water means waters that are free of further governmental harm. The intent of this Section is to achieve waters that are safe for fish and native wildlife and human recreation and, for public drinking water sources, for human consumption; that have sufficient habitats, water filtering, and nutrient cycling to support thriving populations and diverse communities of native fish and wildlife; that have natural flow regimes, to include recharging groundwater, as possible; and that have other intact ecological processes and functions that support healthy aquatic ecosystems, as pertinent to the waters at issue.

Governmental harm means any law, regulation, rule, policy, or permit that, by action or inaction, negatively affects the health or safety of humans, fish or wildlife by either the pollution or degradation of waters. Water pollution includes the introduction of pathogens, contaminants, or toxins into waters. Degradation of waters includes, but is not limited to, chemical, biological or physical stressors that contribute to unnatural water levels or nutrient loads; that remove, fragment or degrade habitat; that disturb vegetation or soil near shorelines; that introduce exotic or invasive species; that obstruct or divert natural flow; and that overexploit native species.

Waters includes the aquatic ecosystems of all naturally occurring water bodies in the jurisdiction of Brevard County whether fresh, brackish, saline, tidal, surface, ground, or underground, and, for the purpose of this Section, includes all natural tributaries and artificial conveyances which impact these water bodies, whether in or outside the jurisdiction of Brevard County.

5.7.3. Harm prohibited. It shall be unlawful and a violation of this Section for any governmental entity to harm or threaten to harm waters of Brevard County by action or inaction.

5.7.4. Authority. The right to clean water is created pursuant to the Florida Constitution, Article II, Section 7(a), and general laws found in Florida Statutes Chapters 120, 376, 403, and elsewhere, which allow for the questioning of agency decisions and which direct the abatement of water pollution; the conservation and protection of waters; the liability of responsible parties to fund costs of removal, containment, and abatement of pollution and, when feasible, the restoration of damaged waters to their pre-damaged condition; that responsible parties bear the costs and not the public; and the ability for any person, natural or corporate, or governmental agency or authority to enforce against and remedy violations of substantial rights to clean water. Brevard County finds this right, enforceable through civil action for equitable relief, to provide a responsible and fair balance of competing rights and interests to shared waters.

5.7.5. Severability and conflicts. This Section should be interpreted, to the greatest extent possible, to be in harmony with any superior state or federal law governing the same rights and conduct. To the extent any provision of this Section of the Charter impermissibly conflicts with any superior state or federal law governing the same conduct, such provision shall be severable and all other provisions shall remain fully enforceable.

5.7.6. Effective date. This Section shall become effective upon passage, which is the date certified by the Supervisor of Elections, and shall not require further enabling legislation by the Brevard County Board of County Commissioners.

Does Brevard County have the legal authority to amend its charter to establish and enforce the right to clean water?

Brevard County has “all powers of self-government not inconsistent with general law” “in the common interest of the people of the county,” to include “all implied powers necessary or incident to carrying out such powers enumerated.”

- Florida Constitution, Article VIII, Section 1(g) - “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.”
- Florida Statutes Section 125.01 “Powers and duties.— (1) The legislative and governing body of a county shall have the power to carry on county government. **To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to...**(j) Establish and administer programs of...conservation, flood and beach erosion control, air pollution control, and navigation and drainage and cooperate with governmental agencies and private enterprises in the development and operation of such programs. (k)1. Provide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs....(w) **Perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law...**(3)(a) **The enumeration of powers herein may not be deemed exclusive or restrictive, but is deemed to incorporate all implied powers necessary or incident to carrying out such powers enumerated...**”

Is the right to clean water inconsistent or otherwise conflict with general law? No. In fact, it directly supports general law which contains a comprehensive scheme of water conservation and protection, as guided by constitutionally-established policy and clear statutory standards with robust amounts of legislative intent and guidance. State agencies may have the regulatory authority to control pollution and degradation of waters in accordance with legislation, but it is a legislative and chartered government function to determine standards of and enforcement measures against harm.

- Florida Constitution: Article II, Section 7(a) - “**It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.**”
- In Chapter 376:
 - “The discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state in the manner defined by ss. 376.011-376.21 is prohibited.”
 - “Any person discharging pollutants as prohibited by s. 376.041 shall immediately undertake to contain, remove, and abate the discharge to the department’s satisfaction...”
 - “Because it is the intent of ss. 376.011-376.21 to provide the means for rapid and effective cleanup and to minimize cleanup costs and damages, any responsible party who permits or suffers a prohibited discharge or other polluting condition to take place within state boundaries shall be liable to the fund for all costs of removal,

containment, and abatement of a prohibited discharge, unless the responsible party is entitled to a limitation or defense under this section..."

- "The Legislature finds that extensive damage to the state's natural resources is the likely result of a pollutant discharge and that it is essential that the state adequately assess and recover the cost of such damage from responsible parties. It is the state's goal to recover the costs of restoration from the responsible parties and to restore damaged natural resources to their pre-discharge condition. In many instances, however, restoration is not technically feasible. In such instances, the state has the responsibility to its citizens to recover the cost of all damage to natural resources. To ensure that the public does not bear a substantial loss as a result of the destruction of natural resources, the procedures set out in this section shall be used to assess the cost of damage to such resources. Natural resources include coastal waters, wetlands, estuaries, tidal flats, beaches, lands adjoining the seacoasts of the state, and all living things except human beings."

- In Chapter 403:

- "The department [of Environmental Protection] shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to...[a]pprove and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement" and to "[e]xercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution."

- "The department shall adopt rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration." Also, it is to "[i]ssue such orders as are necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings...Adopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary....Develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state...Establish and administer a program for the restoration and preservation of bodies of water within the state...Perform any other act necessary to control and prohibit air and water pollution, and to delegate any of its responsibilities, authority, and powers, other than rulemaking powers, to any state agency now or hereinafter established...The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment."

- "The pollution of the air and waters of this state constitutes a menace to public health and welfare; creates public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water.

- It is declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.

- It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state. In accordance with the public policy established herein, the Legislature further declares that the citizens of this state should be afforded reasonable protection from the dangers inherent in the release of toxic or otherwise hazardous vapors, gases, or highly volatile liquids into the environment.

- It is declared that local and regional air and water pollution control programs are to be supported to the extent practicable as essential instruments to provide for a coordinated statewide program of air and water pollution prevention, abatement, and control for the securing and maintenance of appropriate levels of air and water quality.

- It is hereby declared that the prevention, abatement, and control of the pollution of the air and waters of this state are affected with a public interest, and the provisions of this act are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

- The Legislature finds and declares that control, regulation, and abatement of the activities which are causing or may cause pollution of the air or water resources in the state and which are or may be detrimental to human, animal, aquatic, or plant life, or to property, or unreasonably interfere with the comfortable enjoyment of life or property be increased to ensure conservation of natural resources; to ensure a continued safe environment; to ensure purity of air and water; to ensure domestic water supplies; to ensure protection and preservation of the public health, safety, welfare, and economic well-being; to ensure and provide for recreational and wildlife needs as the population increases and the economy expands; and to ensure a continuing growth of the economy and industrial development.
- The Legislature further finds and declares that the public health, welfare, and safety may be affected by disease-carrying vectors and pests. The department shall assist all governmental units charged with the control of such vectors and pests. Furthermore, in reviewing applications for permits, the department shall consider the total well-being of the public and shall not consider solely the ambient pollution standards when exercising its powers, if there may be danger of a public health hazard.
- It is the policy of the state to ensure that the existing and potential drinking water resources of the state remain free from harmful quantities of contaminants. The department, as the state water quality protection agency, shall compile, correlate, and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the drinking water resources of the state..."
- (This is a non-exhaustive list of legislative intent and state policy regarding the matter of harm caused by the pollution and degradation of Florida waters.)

Does general law restrict local governments from creating a cause of action? No. Though still novel, there is no constitutional or statutory language or judicial doctrine that restricts chartered counties from exercising their powers of self-government to create a more stringent standard against certain harm or a civil action to enforce it.

- [Orange County's Charter Amendment for the Right to Clean Water of 2020](#) for example.
- The existence of frustratingly narrow citizen causes of action (such as in Fla. Stat. 403.412) does not equate to a restriction against local governments from creating their own (more effective) causes of action.

Does general law preempt a local enactment of the right to clean water? No. Brevard County's right to clean water is able to "coexist" with the state's regulatory scheme of water protection and conservation without frustrating the purpose of relevant general laws.

- <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/>
- While the state cause of action in Fla. Stat. 403.412 enables suits against violations of "any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state," this proposal looks to the right to protect substantial interests from harms caused by substandard laws, regulations, rules, policies and permits. Two distinct matters at issue, both aimed to protect and conserve waters in accordance with general law..
- The only point of foreseeable "frustration" will likely be within governmental entities that may be liable for harming Brevard County waters. I.e., they may not be thrilled about having to better comply with general law.

Does the "rights of nature preemption" pertain? No. While it was designed and enacted in direct response to Orange County's Charter Amendment, it does not apply here.

- The "state preemption" at issue is found in [Fla. Stat. 403.412 \(9\)\(a\)](#) which reads: "*A local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law may not recognize or grant any legal rights to a plant, an animal, a body of water, or any other part of the natural*

environment that is not a person or political subdivision as defined in s. 1.01(8) or grant such person or political subdivision any specific rights relating to the natural environment not otherwise authorized in general law or specifically granted in the State Constitution.”

- As to the pertinent part (a person’s right TO clean water), by plain meaning, persons and political subdivisions already have the preexisting and enforceable “specific rights” related to the natural environment to expect:
 - The performance of government duties to specifically serve the public health and safety where the environment is concerned (see Fla. Stat. 381.006).
 - The performance of government duties to serve the general welfare and other interests of the people where the environment is concerned (see Fla. Stat. Title XXVIII and Chapter 403).
- Specific rights relating to the natural environment have been specifically granted in the State Constitution as noted above (see Florida Constitution Art II, Section 7a); the right to expect that the whole of state government would implement, enforce and comply with its clear mandates:
 - “It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.”
- Specific rights relating to the natural environment also exist in Fla. Stat. 403.412, the right to file suit against “any person, natural or corporate, or governmental agency or authority” that violates “any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state.” See also Fla. Stat. 120.56 which is often used in environmental litigation (“Any person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.”).
- As can be observed, the word, “right,” can have multiple meanings depending on context. It is unclear which context was intended in this subsection, whether the “specific right” was to be substantive or procedural, whole or derivative, fundamental, positive or negative. Surely, it cannot be construed to mean all “specific rights relating to the natural environment,” as it would have catastrophic effects on Brevard County’s home rule authority to enact any measure pertaining to the natural environment (which, again, is vague enough to include anything that might impact anything not human-made). The Florida Supreme Court has said, “a statutory provision will not be construed in such a way that it renders meaningless or absurd any other statutory provision,” citing *Amente v. Newman*, 653 So.2d 1030, 1032 (Fla.1995) (“if possible, the courts should avoid a statutory interpretation which leads to an absurd result.”). So, if the absurdity is accounted for, what “specific rights relating to the natural environment” remain?
- The right to clean water is a measure of self-defense and protection against government harm. It, too, would be an absurd result to construe the preemption to restrict local government’s abilities and home rule powers to protect the substantial interests of its residents and businesses. As such an absurdity is unfortunately a current reality in Florida and yet to be fully challenged and resolved in the courts, if the CRC prefers to name this proposal “the right against government harm,” “civil action against government harm,” or “the ability of the people to protect themselves,” there are work-arounds.

Is the “rights of nature preemption” constitutional? Until it is challenged in court and determined otherwise, it is presumed to be constitutional. There are, however, multiple facial and as-applied problems that will likely render the preemption unconstitutional and eventually severed and removed from the statute.

- Florida’s Vagueness Doctrine. What is a right? What makes a right specific versus general? What relates and does not relate to the natural environment? As noted above, it is unclear what this apparent prohibition applies to, which is a problem.
- “A statute or ordinance is void for vagueness when, because of its imprecision, it fails to give adequate notice of what conduct is prohibited. Thus, it invites arbitrary and discriminatory enforcement. Art. I, § 9, Fla. Const.; *Southeastern Fisheries*. As the United States Supreme Court has noted: “Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning.

Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application. Third, but related, where a vague statute "abut[s] upon sensitive areas of basic First Amendment freedoms," it "operates to inhibit the exercise of [those] freedoms." Uncertain meanings inevitably lead citizens to "'steer far wider of the unlawful zone' . . . than if the boundaries of the forbidden areas were clearly marked." *Wyche v. State*, 619 So. 2d 231 (1993).

- Here, it is unknown and inconceivable how or why this preemption solves a local inconsistency with the state constitution or state statute, or otherwise serves the public interest pursuant to state police powers to protect public health, safety and welfare. At issue is the local implementation of rights enforcement, outside of "regulatory" pollution control functions or processes, despite both pertaining to clean water. To carry through the state's presumed claim to "all things natural or environmental," it again meets the absurd assertion that people do not have rights to protect themselves, their families, their homes or their community from government harm.
- An excerpt from an article published in the Florida Bar Journal, linked above, relates: "Cases in which the courts have found express state preemption are rare. Taxation is one of the areas in which there has been an explicit finding of express preemption. Based on the constitutional protections afforded local governments, any ambiguity on the issue of express preemption should be resolved in favor of the local government. Such a presumption is consistent with the voters' intent to provide broad home rule powers to cities and charter counties so that they may protect the welfare of their citizens. Accordingly, Florida courts have usually bowed to the voters' intent that local governments should be able to act barring a clear directive by the state not to allow the action." Again, the only preemption that would bar Brevard County from amending its charter to provide for the creation and enforcement of the right to clean water, whether the right is granted to persons, political subdivisions, waters or other natural elements or systems – would prohibit the right to not be harmed, and would be unconscionable. All things considered, the preemption should be challenged and removed from Florida law.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 7 Public Hearing 2

SUBJECT:

Proposal to Repeal Article 8. School Board of Brevard County and Section 8.1-Election of School Board Members

PETITIONER CONTACT:

Blaise Trettis (proponent)-member of the 2021-2022 Charter Review Commission

REQUESTED ACTION:

Proposes the Repeal of Article 8 School Board Member of Brevard County and repeal of Section 8.1-Election of School Board Members

SUMMARY EXPLANATION & BACKGROUND:

See Attached Entire Document

Staff Contact:

Melissa Brandt

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Email Address:

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**PROPOSAL TO REPEAL ARTICLE 8. SCHOOL BOARD OF BREVARD COUNTY
AND SECTION 8.1. ELECTION OF SCHOOL BOARD MEMBERS**

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission proposes the repeal of ARTICLE 8. SCHOOL BOARD OF BREVARD COUNTY and repeal of SECTION 8.1. ELECTION OF SCHOOL BOARD MEMBERS as indicated below by the stricken words:

**ARTICLE 8
SCHOOL BOARD OF BREVARD COUNTY**

SECTION 8.1. ELECTION OF SCHOOL BOARD MEMBERS

~~Members of the School Board of Brevard County elected after January 1, 1999, shall be elected on a single member representation basis as follows: The school district shall be divided into school board residence areas, one for each seat on the school board, the areas together covering the entire school district and being as nearly equal in population as is practicable, as provided by general law. Each school board member shall reside in one residential area at the time of qualifying for office and shall continue to reside in the area for which the member was elected throughout the term of office as a qualification to hold the office. School board members shall be nominated and elected only by the qualified electors who reside in the same residential area as the member. All members shall be elected for four year terms, staggered. This provision shall not affect the members of the school board who are in office on January 1, 1999, who shall serve the remainder of their terms of office as if this provision had not been adopted. (Amd. 11-3-98)~~

1. REASON FOR PROPOSAL

Article 8. School Board of Brevard County and section 8.1. Election of School Board Members became part of the Brevard County Charter as a result of the vote of the electorate at the 1998 general election.

The question on the 1998 ballot and the vote result was as follows¹:

**PROPOSED CHARTER AMENDMENT NO. 4
SINGLE-MEMBER ELECTION OF SCHOOL BOARD MEMBERS**

Shall the Brevard County Charter be amended to provide that the school board members of Brevard County shall be elected to office from single-member residence areas by electors residing in each of those areas only?

YES
NO

County Charter Amendment 4 - Single-Member Election of School Board Members

Yes	80,304	58.51%
No	56,935	41.49%

¹ From email correspondence from Supervisor of Elections from March 15, 2022.

Proponent submits that the 1998 Article 8 amendment to the Charter was inconsistent with the Florida Constitution and general law and was consequentially legally invalid from its approval to today. Proponent submits that this invalid 1998 Charter amendment needs to be repealed so that school board elections in Brevard County will be conducted in accordance with section 1001.361 Florida Statute (2021) in which each qualified elector (i.e. registered voter) “shall be entitled to vote for one candidate from each district school board member residence area. The candidate from each district school board member residence area who receives the highest number of votes in the general election shall be elected to the district school board.” See s. 1001.361 Fla. Stat. (2021).

The 1998 Article 8 amendment to the Brevard County Charter was done contrary to Florida statutes. In 1998, section 230.10 Fla. Stat. (1998) provided that, “The election of members of the school board shall be by vote of the qualified electors of the entire district.” A school district is comprised of the entire county. See s. 230.061(1) Fla. Stat. (1998). Pursuant to Florida statutes, the school district (i.e. the entire county) can be divided into five single-member school board election residence areas if: 1) the school board adopts a formal resolution directing an election to place the proposition on the ballot or; 2) the electors of the school district petition to have the proposition placed on the ballot by getting not less than ten percent of the qualified electors to sign petitions for elections from single-member representation residence areas in which only electors of the residence area can vote for the school board candidates who reside in their residence area. See s. 230.105(3) Fla. Stat. (1998).

Florida statutes have never authorized Charter counties to create single-member school board elections by residence area by amendment of the county Charter. The two methods delineated above for creation of single-member school board election by residence area are the only methods authorized by Florida statutes.

The District School Boards statutes were re-numbered in an overhaul of the Florida statutes in the year 2002 when K-20 Governance was created in Chapter 1001 Florida statutes. See Ch. 2002-387, Laws of Fla. Although some technical language was added in this 2002 overhaul of K-20 Governance, the statutes were not substantively changed. The statute sections today which are substantively the same as the 1998 sections aforementioned are at s. 1001.34 Fla. Stat. (2021), s. 1001.36 Fla. Stat. (2021), s. 1001.361 Fla. Stat. (2021), s. 1001.362 Fla. Stat. (2021).

The 1998 Article 8 School Board of Brevard County amendment to the Charter was done contrary to Article VIII, section 1 (g) Florida Constitution, which reads in part: “(g) 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 1998 amendment to the Brevard Charter was also done contrary to s. 125.01 Fla. Stat. which provides that county government shall have the power to carry on county government to the extent not inconsistent with general or special law.

2. The Opinion of Brevard County Charter Review Commission Attorney Paul Gougelman.

Commission attorney Paul Gougelman, in his March 13, 2022 memorandum to the commission, has opined that Article 8 of the Brevard County Charter is not consistent with the Florida Constitution or general law. Attorney Gougelman’s opinion at paragraphs 5 and 6 at page 2, says:

“5) Per Ms. Schmitt: Article 8 of the Charter provides for school board members to be elected from single member districts. Is Article 8 legal? What can the County do and not do with regard to school board? ANSWER: More likely than not, were this issue submitted to a court of law, the court would find that the inclusion in the County Charter of language providing for the election of school board members from single-member districts is not consistent with the Florida Constitution or general law. See Analysis, Section II.D. and III., below.

6) Per Mr. Trettis: What is the effect of a local bill presented by State Rep. Fine regarding providing for single member school board electoral districts? ANSWER: The legislation did not pass the Florida Legislature. As a result, the Charter’s Article 8 providing for single-member School Board district elections appears inconsistent general law. See Analysis, Section II.D., below.”

3. Preemption by the Legislature of the Creation of Single-Member School Board Elections by Residence Area.

Proponent submits that the Florida Legislature has preempted Charter counties from creating single-member school board elections by residence area in the county Charter because the legislature’s statute specifically delineates the two ways in which single member school board elections by residence area can be created. See s. 230.105(3) Fla. Stat. (1998); s. 1001.362(3) Fla. Stat. (2021). Proponent submits that the legislature’s specificity in its single member school board election scheme and the legislature’s pervasiveness in this specific subject matter of the creation of single-member school board election by residence area is compelling evidence of the legislature’s intent to preempt from the counties the authority to create single-member school board elections by residence area and there are strong public policy reasons to find that the creation of single-member school board elections by residence area has been preempted by the legislature. See *Tallahassee Memorial Regional Medical Center v. Tallahassee Medical Center, Inc.* 681 So. 2d 826, 831 (Fla 1st DCA 1996), accord, *D’Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017). The public policy which is advanced by legislative preemption is the statewide uniformity that results from preemption. For example, s. 1001.362(3) Fla. Stat. (2021) requires that only a majority of a county’s electorate is needed to vote to create single-member school board elections by residence area. Conversely, a county Charter Charter could impose the requirement that 60% of the electorate must vote “yes” to create single-member school board elections by residence area – just as amendments to the Florida Constitution must attain 60% “yes” vote to pass. See Article XI, section 5 (e) Florida Constitution.

Judicial rules of statutory rules of construction support the argument that the legislature has preempted counties from creating, by charter amendment, single-member school board elections by residence area. It is a general principle of statutory construction that the mention of one thing implies the exclusion of another. The Latin phrase for this statutory rule of construction is *expressio unius est exclusio alterius*. See *Moonlit Waters Apartments, Inc. v. Cauley*, 666 So. 2d 898 (Fla. 1996); *Thayer v. State*, 335 So. 2d 815 (1976); *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341 (Fla. 1952). Where a statute enumerates the things on which it is to operate, it is ordinarily to be construed as excluding from its operation all those not expressly mentioned. *Thayer v. State, supra*. In other words, when a statute expressly describes a particular situation in which something should apply, an inference must be drawn that what is not included by specific reference was intended to be excluded. *Gay v. Singletary*, 700 So. 2d 1220 (Fla. 1997).

Applying the above rule of statutory construction to s. 1001.362(3) Fla. Stat. (2021), proponent submits that the legislature intended to exclude Charter amendment as a means to create single-member school board elections by residence area as demonstrated by the legislature's specific enumeration in s. 1001.362(3) that resolution of the school board and citizen petition followed by majority vote of the electorate of the entire county are the two exclusive methods for creation of single-member school board election by residence area.

There is language in s. 1001.361 Fla. Stat. (2021) which arguably expressly preempts a county's authority to create single-member school board elections by residence area: "1001.361 **Election of board by districtwide vote.** Notwithstanding any provision of local law or any county charter (emphasis added), the election of members of the district school board shall be by vote of the qualified electors of the entire district in a nonpartisan election as provided in chapter 105."

Proponent submits that in the above language the legislature explicitly prevents county Charters from changing districtwide school board elections to single member elections by residence area as was done in the 1998 amendment to the Brevard County Charter in Article 8 of the Charter.

4. School Board Election Results are Subject to Successful Legal Challenge in Brevard County.

Proponent submits that section 8.1. of the Brevard County Charter makes school board election results subject to successful legal challenge in Brevard County. A school board candidate who loses election for school board, or any Brevard County registered voter, can file a well-founded lawsuit in Circuit Court challenging the winning candidate's lawful authority to assume office of school board on the grounds that the winning candidate was not elected by the electors of the entire district (i.e. the entire county). See s. 1001.361 Fla. Stat. (2021), s. 1001.30 Fla. Stat. (2021) "Each county shall constitute a school district and shall be known as the school district of _____ County, Florida." The losing candidate's lawsuit or the registered voter's lawsuit, likely a petition for writ of quo warranto, will argue that Article 8.1. of the Brevard County Charter which purportedly creates single-member school board elections by residence area, was unlawfully created in 1998; that it is inconsistent with Article VIII, section 1 (g) of the Florida Constitution and is inconsistent with s. 1001.362 (3) Fla. Stat. (2021). Proponent submits that the losing candidate, or registered voter, will likely prevail in their lawsuit; that the Circuit Court will rule that the winning candidate was not elected validly by law because he or she was not elected by the electorate of the entire school district, i.e., the entire county. Proponent submits that a new, district wide (i.e. countywide) election may be ordered by the Circuit Court at significant cost to the taxpayers of Brevard County. Proponent submits that this bad outcome should be avoided in future years by the repeal of Article 8 and Article 8, section 8.1. of the Brevard County Charter.

5. Argument for Districtwide (i.e., county-wide) Election of School Board Members

In addition to the legal argument above for repeal of Article 8 of the Charter, proponent submits that the electors of Brevard County should have the opportunity to re-visit the 1998 vote to create single-member school board elections by residence area. This is because of the nationwide focus on the importance of school boards in the modern era of face mask mandates by school boards like that of the Brevard School Board, the teaching of critical race theory in school, and transgender policy of the Brevard School Board which, from kindergarten through 12th grade: 1) permits boys to dress as girls; 2) requires all school employees to call

“transgender” boys pronouns “she, her, hers” and “transgender” girls to be called “he, him, his”; 3) requires all school employees to call K-12 students by the name that they want to be called. For example, 7 year old Johnathan must be called Rebecca if the child says so; 4) requires schools to issue identification badges which use this false name of the child; 5) forces schools to allow boys to use the girls’ toilets, girls’ locker rooms, and girls’ shower; 6) forces schools to allow girls to use the boys’ toilets, boys’ locker rooms, and boys’ showers; 7) requires all school employees to not inform the students’ parents or guardian that the student, while at school, assumes the identity, mannerism, dress, pronouns, of the opposite sex. This part of the Brevard Public School transgender policy violates the Parental Rights in Education Act passed by the 2022 Florida Legislature; 8) provide website information to students to help them to decide to “transition” to the opposite sex.

With the above policy decisions made by school boards, including the Brevard County School Board, proponent submits that the electors of Brevard County are likely to vote to repeal Article 8 of the Charter so that the electors can again vote in every school board residence area race to vote-out of office the school board members who have adopted the policies described above.

Repeal of Article 8 is also supported by s. 1001.363 Fla. Stat. (2021) which says, “Each district school board of each district shall represent the entire district. Each member of the district school board shall serve as the representative of the entire district, rather than as the representative of a district school board member residence area.” When the electors of Brevard County are informed of this districtwide representation required by Florida law, the electors are likely to vote for the repeal of Article 8.

Service of Proposal.

This proposal was sent by e-mail delivery on March 23, 2022, to the members of the 2021-22 Brevard County Charter Review Commission; commission attorney Paul R. Gougelman; Brevard County government employees Melissa Brandt and Jim Liesenfelt.



These guidelines were established to ensure the safety of every student is met, including our students who identify as or are perceived to be lesbian, gay, bisexual, transgender, or questioning (LGBTQ). We believe through these guidelines we can serve every student with excellence as the standard.

Gender Expression

External appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.


Gender Identity

One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.


Sexual Orientation

One's emotional, romantic, or sexual attraction to others.

LGBTQ+ Student/School Support

 Lisa Elam, Content Specialist,
Bullying and Harassment
Prevention

 Elam.lisa@brevardschools.org

 (321) 633-1000 Ext: 11526


Anti-Bullying Resources

speakouthotline.org
1-800-423-TIPS

24-Hour Information and Crisis Hotline

thetrevorproject.org
1-866-488-7386
Text: START to 678678

Sources of Strength Support

 Janean Knight, Resource Teacher,
Student Services

 Knight.Janean@brevardschools.org

LGBTQ+ District Guidance



Action 1: Dress Code

All students may dress and present in ways that are consistent with their gender identity and expression, while still abiding by the Brevard Public Schools dress code, including at any school sponsored events and functions. This includes dances, graduation, JROTC, etc. The full-dress code can be found in Board Policy 5511 or within the code of student conduct.



Action 2: Names and Pronouns

All students are to be referred to by the gender pronoun and name consistent with their gender identity in verbal and written communication, i.e., in class, at assemblies, on school ID badges, and all other unofficial documents such as honor roll certificates and yearbook. Only "official" documents must use a student's legal name. Official documents include registration, report cards, diploma, standardized tests, student cum files, ISP/s/S504 Plans, before and after school registration documents.



Action 3: Restrooms/Locker Rooms

All students are allowed to access locker rooms and restrooms that are consistent with their gender identity or be provided appropriate accommodations. If accommodations are desired, decisions should be student driven and with district support on a case-by-case basis.



Action 4: School Events and Functions

All students may bring same-gender dates to any school sponsored event or function. This includes dances, graduation, JROTC, etc. All students shall be allowed to participate in school traditions, however if the tradition includes gender separated components, then all students may participate in a manner consistent to their gender identity.



Action 5: Interscholastic Athletics

In accordance with the SB 1021. Section 1006.205 (Fairness in Women's Sports Act), interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by a public secondary school must be expressly designated based on the biological sex at birth of team members; a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex at birth.

Action 6: Clubs



All students have the right to form and participate in a GSA (Gay-Straight Alliance) or any LGBTQ+ related organization, including student named and generated clubs, as they would with any other club.

Action 7: Confidentiality/Identity



All LGBTQ+ students have the right to decide when and to whom their gender identity and sexual orientation is shared. School mental health providers and trusted adults are encouraged to support students in determining a safe and affirming learning environment.

Action 8: Pride



All faculty, staff, and students are afforded the same rights and protections under district, state, and federal policy. It is imperative that students, school staff, and other adults feel safe, included, and empowered on our school campuses, and at school related events and functions.

*Action items are subject to change as determined by changes to statutes and law.

Non-Discrimination Policy

The School Board of Brevard County, Florida does not discriminate on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information or any other factor protected under applicable federal, state, or local law.

The district also provides equal access to its facilities to youth groups, as required by the Boy Scouts of America Equal Access Act. The School Board of Brevard County is in compliance with the Americans with Disabilities Act of 1990 (ADA) and the Amendment Act of 2008 (ADAA), the Florida Education Equity Act of 1984, Age Discrimination Act of 1967 and Section 504 of the Rehabilitation Act of 1973, Civil Rights Act of 1964 including: Title II, Title VI, and Title VII, United States Education Amendments of 1972 - Title IX, Age Discrimination in Employment Act (ADEA), and Individuals with Disabilities Act (IDEA).

Blaise Trettis

From: Carrie LeBeau
Sent: Tuesday, March 15, 2022 2:35 PM
To: Blaise Trettis
Subject: FW: records request

From: Records <records@votebrevard.gov>
Sent: Tuesday, March 15, 2022 2:34 PM
To: SOE <SOE@votebrevard.gov>; Carrie LeBeau <clebeau@pd18.net>
Cc: Records <records@votebrevard.gov>
Subject: RE: records request

Carrie,

I do not have actual ballots from that election, but this was the language that appeared on the 1998 General Election Ballot.

**PROPOSED CHARTER AMENDMENT NO. 4
SINGLE-MEMBER ELECTION OF SCHOOL BOARD MEMBERS**

Shall the Brevard County Charter be amended to provide that the school board members of Brevard County shall be elected to office from single-member residence areas by electors residing in each of those areas only?

YES
NO

And her were the results for that charter amendment.

County Charter Amendment 4 - Single-Member Election of School Board Members

Yes	80,304	58.51%
No	56,935	41.49%

Tim Bobanic, MFCEP

Director of IT and Election Systems
Brevard County Supervisor of Elections
(321) 633-2175 - Direct
(321) 633-2130 - Fax
tbobanic@votebrevard.gov

From: SOE <SOE@votebrevard.gov>
Sent: Tuesday, March 15, 2022 9:46 AM
To: Carrie LeBeau <clebeau@pd18.net>
Cc: Records <records@votebrevard.gov>
Subject: RE: records request

Your request has been received and will be responded to in a timely manner. Thank you.

The 1998 Florida Statutes

[Title XVI](#)
EDUCATION

[Chapter 230](#)
District School System

[View Entire Chapter](#)

230.10 Election of board by districtwide vote.--The election of members of the school board shall be by vote of the qualified electors of the entire district. Each candidate for school board member shall, at the time she or he qualifies, be a resident of the school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot of the general election shall be listed according to the school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each school board member residence area. The candidate from each school board member residence area who receives the highest number of votes in the general election shall be elected to the school board.

History.--s. 410, ch. 19355, 1939; CGL 1940 Supp. 892(73); s. 9, ch. 23726, 1947; s. 1, ch. 69-300; s. 2, ch. 88-334; s. 1223, ch. 95-147.

Select Year: 1998 ▼

The 1998 Florida Statutes

[Title XVI](#)
EDUCATION

[Chapter 230](#)
District School System

[View Entire Chapter](#)

230.061 School board member residence areas.--

(1) For the purpose of nominating and electing school board members, each district shall be divided into at least five district school board member residence areas, which shall be numbered one to five, inclusive, and which shall, as nearly as practicable, be equal in population.

(a) For those school districts, which have seven school board members, the district may be divided into five district school board member residence areas, with two school board members elected at large, or the district may be divided into seven district school board member residence areas. In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

(b) For those school districts which have seven school board members, the number of district school board member residence areas shall be determined by resolution passed by a majority vote of the district school board. No district school board shall be required to change the boundaries of the district school board member residence areas in accordance with the provisions of this act prior to July 1, 1981.

(2) The school board of any district may make any change which it deems necessary in the boundaries of any school board member residence area of the district at any meeting of the school board; provided that such changes shall be made only in odd-numbered years and provided further, that no change which would affect the residence qualifications of any incumbent member shall disqualify such incumbent member during the term for which he or she is elected.

(3) Such changes in boundaries shall be shown by resolutions spread upon the minutes of the school board, and shall be recorded in the office of the clerk of the circuit court, and shall be published at least once in a newspaper published in the district within 30 days after the adoption of the resolution, or, if there be no newspaper published in the district, shall be posted at the county courthouse door for 4 weeks thereafter. A certified copy of this resolution shall be transmitted to the Department of State.

History.--s. 3, ch. 57-249; s. 1, ch. 59-232; ss. 10, 35, ch. 69-106; s. 1, ch. 69-300; ss. 1, 2, ch. 77-276; s. 1222, ch. 95-147.

Select Year:

The 1998 Florida Statutes

[Title XVI](#)
EDUCATION

[Chapter 230](#)
District School System

[View Entire Chapter](#)

230.105 **Alternate procedure for the election of district school board members to provide for single-member representation.--**

(1) This section shall be known and may be referred to as "The School District Local Option Single-Member Representation Law of 1984."

(2) District school board members shall be nominated and elected to office in accordance with the provisions of ss. 230.061 and 230.10, or as otherwise provided by law, unless a proposition calling for single-member representation within the residence areas of the district is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in subsection (3).

(a) If the school board is composed of five members, such proposition shall provide that the five members shall reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member.

(b) If the school board is composed of seven members, at the option of the school board, such proposition shall provide that:

1. Five of the seven members shall reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member, and two of the seven members shall be nominated and elected at large; or

2. All seven members shall reside one in each of seven residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member.

(c) All members shall be elected for 4-year terms, but such terms shall be staggered so that, alternately, one more or one less than half of the members elected from residence areas and, if applicable, one of the members elected at large from the entire district are elected every 2 years. Any member may be elected to an initial term of less than 4 years if necessary to achieve or maintain such system of staggered terms.

(3) A proposition calling for single-member representation within the residence areas of the district shall be submitted to the electors of the district at any primary, general, or otherwise-called special election, in either manner following:

(a) The district school board may adopt a formal resolution directing an election to be held to place the proposition on the ballot.

(b) The electors of the school district may petition to have the proposition placed on the ballot by presenting to the school board petitions signed by not less than 10 percent of the duly qualified electors residing within the school district. The number of signatures required shall be determined by the supervisor of elections according to the number of registered electors in the district as of the date the petitioning electors register as a political committee as provided in subsection (4).

(4) The electors petitioning to have the proposition placed on the ballot shall register as a political committee pursuant to s. 106.03, and a specific person shall be designated therein as chair of the committee to act for the committee.

(5)(a) Each petition form circulated for single-member representation within the residence areas of a district where the school board is composed of five members shall include the wording: "As a registered elector of the school district of _____ County, Florida, I am petitioning for a referendum election to determine whether the five school board members of said district shall be elected from single-member residence areas by electors residing in each of those areas only."

(b) Each petition form circulated for single-member representation within the residence areas of a district where the school board is composed of seven members, none of whom are to be elected at large, shall include the wording: "As a registered elector of the school district of _____ County, Florida, I am petitioning for a referendum election to determine whether the seven members of said district shall be elected from single-member residence areas by electors residing in each of those areas only."

(c) Each petition form circulated for single-member representation within the residence areas of a district where the school board is composed of seven members, two of whom are to be elected at large, shall include the wording: "As a registered elector of the school district of _____ County, Florida, I am petitioning for a referendum election to determine whether five of the seven school board members of said district shall be elected from single-member residence areas by electors residing in each of those areas only, with the two remaining members being elected at large."

The petition shall also include space for the signature and address of the elector. Each signature obtained shall be dated when made and is valid for a period of 4 years following that date.

(6) Upon the filing of the petitions with the district school board by the chair of the committee, the school board shall submit the petitions to the supervisor of elections for verification of the signatures. Within a period of not more than 30 days, the supervisor of elections shall determine whether the petitions contain the required number of valid signatures. The supervisor of elections shall be paid by the committee seeking verification the sum of 10 cents for each name checked.

(7) If it is determined that the petitions have the required signatures, the supervisor of elections shall certify the petitions to the district school board, which shall adopt a resolution requesting that an election date be set to conform to the earliest primary, general, or otherwise-called special election that occurs not less than 30 days after certification of the petitions. If it is determined that the petitions do not contain the required signatures, the supervisor of elections shall so notify the district school board, which shall file the petitions without taking further action, and the matter shall be at an end. No additional names may be added to the petitions, and the petitions may not be used in any other proceeding.

(8) No special election may be called for the sole purpose of presenting the proposition to the vote of the electors.

(9) Any district adopting any of the propositions set forth in this section may thereafter return to the procedures otherwise provided by law by following the same procedure outlined in subsection (3).

(10) No school board member elected prior to or at the election which approves any revision as permitted herein shall be affected in his or her term of office. The resolution adopted by the school board under paragraph (3)(a) or subsection (7) which presents the proposed revision to the electorate for approval shall specify an orderly method and procedure for implementing the revision contemplated in the resolution.

History.--s. 1, ch. 84-113; s. 43, ch. 85-80; s. 1224, ch. 95-147; s. 2, ch. 97-190.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 8 - Public Hearing 2

SUBJECT:

Section 2.7 Vacancies and Suspensions

PETITIONER CONTACT:

Robert Burns (407) 810-3200
email: rwburns3rd@gmail.com

REQUESTED ACTION:

Proposal to amend Section 2.7 effectively removing Governor appointments for vacancies and replacing with a special election regardless of time remaining of vacant term

SUMMARY EXPLANATION & BACKGROUND:

The timely resignation by Bryan Lober has brought attention to the rare occasion of having to fill a vacancy on the County Commission. Because there is less than a year remaining in the term, the Charter calls for the vacancy to be filled by the Governor. The language in the Charter is faulty in that it states "shall" be filled by appointment of the Governor. The Brevard County Charter does not have the power to dictate what actions the Governor "shall" do. As has been acknowledged, it is the Governor's discretion of whether or not to fill a vacancy or let it remain vacant until the next scheduled election for the position. This practice leaves the citizens of the effected district without elected representation, and no guarantee to have any representation under these guidelines. To quote the Mayor of Palm Bay, Rob Medina when a similar situation presented itself in Palm Bay, "This is un-American."

When Palm Bay had a vacancy occur last year with the sudden resignation of Councilman Jeff Bailey, the Palm Bay City Council moved to appoint a member to fill the vacancy. The Palm Bay City Charter allows for Council to determine how a vacancy is

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:

filled by ordinance. When the majority of the remaining council voted to appoint a member, there was much backlash from hundreds of members in the county demanding a special election in-leu-of an appointment. Arguments were made by hundreds of individuals during public comment as well as by elected officials calling it voter supression, stripping away the constitutional right to vote, corrupt, etc. The lobbying by the community proved effective and the decision was reversed allowing for a special election to fill the seat. Those outcires are notably silent now.

Those strong arguments apply to the County as well. The arguments may even be stronger in that unlike Palm Bay, Commissioners are single member distrctits while Palm Bay Councilmen are at-large. The citizens of District 2 no longer have a Commissioner representing them that they had the right to vote for. As decisions directly impacting them are being voted on such as taxes, it can be argued they now have taxation without representation due to no fault of their own.

The citizens of each district should have the right to choose who represents them, otheriwise we no longer have a democratic process but a political one. The Governor not being a resident of Brevard must rely on the input of other elected officials and advisors in order to make an appointment to the office should he even chose to do so. This process severely lacks transparency, does not allow for citizens to take place in the process, and allows for the perception political favors, special treatments, or inpropriety, etc.

Our Nation was founded on the premise that the people choose who represent them, not dictated who will represent them.

I propose that Section 2.7 be amended to remove the Governor appointment clause and state that any vacancy will be filled by special election if there are at least 90 days remaining in the term to allow for an election to occur. If less than 90 days, then qualified individuals can apply to be appointed to the Commission by the remaining Commissioners in the same ranking system as a County Board. If an appointment must occur, then at least it will come from those who have expressed the interest to serve, and voted on by actual elected officials of the community.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 9 -Public Hearing 1

SUBJECT:

Amend Section 2.4 by changing language in Section 2.4.

PETITIONER CONTACT:

Robin Fisher; Charter Review Commission Member - District 1

REQUESTED ACTION:

Amend the Brevard County Charter - Section 2.4 and change the number consecutive terms of office for a Brevard County Commissioner from ~~two (2)~~ to three (3).

SUMMARY EXPLANATION & BACKGROUND:

Sec. 2.4. - Terms of Office.

Each Commissioner shall be elected and serve for four (4) years, beginning on the second Tuesday after election, and continuing after such term until a successor is elected and qualified. The terms shall be staggered as presently provided by general law. No county commissioner shall serve more than two (2) consecutive terms of office; and

The Charter Review Commission has recommended the following amendment to the last sentence of Section 2.4. to read as follows:

"Effective immediately upon adoption of this amendment, no county commissioner shall serve more than ~~two (2)~~ three (3) consecutive terms of office."

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 10 -Public Hearing 1

SUBJECT:

Amend the last sentence of Section 7.3.3 of the Brevard County Charter

PETITIONER CONTACT:

Marie Rogerson; Charter Review Commission Member - District 2

REQUESTED ACTION:

Proposal to amend the last sentence of Section 7.3.3 for clarity and to reflect the need for greater consensus before changing the County Charter.

SUMMARY EXPLANATION & BACKGROUND:

Section 7.3.3 - Sentence Amended as follows:

Passage of proposed amendments shall require ~~approval of a majority of electors voting said election.~~ approval by a vote of at least sixty percent of the electors voting on the measure. it shall be effective as an amendment to or revision of the Charter on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 11 Public Hearing 1

SUBJECT:

Article 1-Creation, Powers and Ordinances of Home Rule Charter Government

PETITIONER CONTACT:

Dontavious "Tay" Smith, email: flanative_cocoa321@hotmail.com phone:(321) 301-3835

REQUESTED ACTION:

Change the name of Brevard County.

SUMMARY EXPLANATION & BACKGROUND:

Beginning year 2026, wherefore, the county name of "Brevard", will no longer be the corporate name, body or government for the territory and jurisdiction that it claims. Any and all locations of the word "Brevard" will be replaced throughout the Charter with a proposed name. the namesake of Brevard derives from a history of racism and enslavement of black people in Florida. The County is named in honor of former Florida Judge Theodore W. Brevard, and early settler, and confederate comptroller from Lincolnton, North Carolina. Theodore Brevard never lived in Brevard, and was only honored because of his role in the Civil War as a Florida Comptroller. He was the father of Brigadier General Theodore Brevard. The County needs to eliminate the roots of racism. Besides leadership reflecting the care and dignity of its citizens, changing Brevard's identity with a name change is just and proper.

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:

Name Change Suggestions:

1. **BLAKE County**-To pay tribute to the Honorable Richard "Dick" Blake and his contributions to integrate cultures in Brevard.
2. **PROSPER County**- To illustrate a brand of growth to our citizens and guest. Showing that regardless of if you live, work or play here, you will PROSPER.
3. **BEACH County**-A great advertising mechanism to illustrate the Beach culture on the Space Coast which will attract tourist to come just because we are, a Beach County.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 12 Public Hearing 1

SUBJECT:

Article 2- Legislative Branch

PETITIONER CONTACT:

Dontavious "Tay" Smith email:flanative_cocoa321@hotmail.com phone: (321)301-3835

REQUESTED ACTION:

Amend Article 2-Legislative Branch, to include and elected at-large Mayor of Brevard County; increase the salary of commissioners;removes the Governor from filing a vacancy; includes temporary successor plan; and removes the selection of a Chair and Vice Chair at organizational meeting; inter alia.

SUMMARY EXPLANATION & BACKGROUND:

See Attached

Staff Contact:

Melissa Brandt

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**807 South Wilson Avenue. Cocoa, FL 32922
(321)301-3835 email: flnative_cocoa321@hotmail.com**

**Petitioner: Dontavious "Tay Duh Mayuh"
Smith Date: April 26, 2022**

SUBJECT: ARTICLE 2 -LEGISLATIVE BRANCH

REQUESTED ACTION:

AMEND ARTICLE 2 -LEGISLATIVE BRANCH, TO INCLUDE AN ELECTED AT-LARGE MAYOR OF BREVARD COUNTY; INCREASE THE SALARY OF COMMISSIONERS; REMOVES THE GOVERNOR FROM FILING A VACANCY; INCLUDES TEMPORARY SUCCESSOR PLAN; AND REMOVES THE SELECTION OF A CHAIR AND VICE CHAIR AT ORGANIZATIONAL MEETING; INTER ALIA.

SUMMARY EXPLANATION & BACKGROUND:

THIS AMENDMENT TO INCREASE THE SALARY AND COMPENSATION FOR COUNTY COMMISSIONERS, AND TO INCLUDE THE ELECTION OF A MAYOR OF BREVARD COUNTY, FL, INTER ALIA, WILL BE INAUGURATED AS OF NOVEMBER 10, 2026, AS THE FIRST GENERAL ELECTION FOR MAYOR OF BREVARD COUNTY, FL. THIS AMENDMENT WILL ALLOW REGISTERED VOTERS TO HAVE AN INPUT ON THE CHAIRPERSON THEY WOULD LIKE TO REPRESENT BREVARD COUNTY, RATHER HAVING COMMISSIONERS CHOOSE WHO THEY WANT CHAIRING *THE* SEAT OF COMMISSIONERS. THAT COMMISSIONER WOULD SERVE A TERM OF FOUR YEARS FROM A NON-PARTISAN ELECTION, AND NOT UNTIL THE FOLLOWING ORGANIZATIONAL MEETING. THIS PROPOSAL ILLUSTRATES THE DUTIES AND POWERS AS REQUIRED BY THE CHARTER FOR MAYOR. THIS AMENDMENT WILL PREPARE FOR FUTURE GOVERNMENT THAT WILL HAVE TO MANAGE OVER 200K RESIDENTS AND GUESTS, WITH AN INFLUX OF ECONOMIC DEVELOPMENT AND VISITORS COMING TO BREVARD IN THE VERY NEAR FUTURE. THIS WILL ALSO ALLOW THE BREVARD COUNTY GOVERNMENT TO HAVE AN ADDITIONAL LEVEL OF OVERSIGHT, TRANSPARENCY AND INTEGRITY WITHIN THE OFFICE OF BOARD OF COMMISSIONERS.

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PROPOSAL:

ARTICLE 2 – LEGISLATIVE BRANCH: BOARD OF BREVARD COUNTY COMMISSIONERS

2.1 Composition

~~The Board of County Commissioners shall be composed of five members. There shall be five (5) County Commission electoral districts. Each district shall elect one (1) Commissioner.~~

The legislative branch of Brevard County shall be the board of county commissioners, composed of the county mayor and the county commissioners. The Board of County Commissioners shall be composed of five members (5), with each member elected from single member electoral districts and a county mayor elected county-wide. Each district shall elect one (1) Commissioner.

2.6 Salary and Compensation

Salary and other compensation of the County Commissioners shall be ~~the same as that in effect on~~ December 31, 1999. ~~On or before October 1, 2001, and on or before October 1 of every even-numbered year thereafter~~ \$78, 365.23. The Board of County Commissioners may adopt an ordinance fixing the salaries of Commissioners for the next two years. There shall be no automatic increases in salary or other compensation. An ordinance increasing salary or other compensation shall not become effective until the first day of January in the year following adoption of the ordinance.

The specified salary shall not exceed the average percentage increase in the salaries of county employees for the fiscal year just concluded, or the percentage change of the consumer price index from the previous year, whichever is less. All other compensation must be based on actual expenses incurred in Board directed performance of duties of Commissioners as provided by general law of the State of Florida.

~~An ordinance providing for an increase in salary or compensation shall be subject to nullification under the provisions for initiative provided in Article 5 of this Charter. Except for such nullification, the salary or other compensation of a Commissioner shall not otherwise be decreased during that Commissioner's term of office.~~



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If any Commissioner's total net worth, or annual income (individually or jointly) is not equal to or more than the salary of a Brevard County Commissioner pursuant to F.S. 186.901 during the County's "qualifying period", upon becoming elected that Commissioner shall receive compensation pursuant to F.S. 186.901 upon becoming elected.

Sec. 2.7 Vacancies and Suspensions

A vacancy in the office of County Commissioner arising from the death, resignation or removal of such official shall, if one year or less remains in the term of office, be filled by appointment by a majority vote of the Governor Board of County Commissioners; provided, a vacancy created by recall shall be filled as provided in Section 5.2 of this Charter. Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election. The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law.

Sec. 2.7.1 Temporary Succession Plan

In the event of death, resignation or removal of such official, or other occurrence that results in more than one vacancy on the board and a concurrent likelihood of material delay in the filling of the vacancies by the Governor of Florida, then, to the extent not inconsistent with general or state constitutional law, temporary successors shall be chosen to serve, but in each case only until the governor appoints the permanent successor, or until the end of the term of said replaced elected official, whichever first occurs. The temporary successors shall be chosen as follows:

1. The temporary successors shall be chosen in the manner provided by ordinance enacted by the approving vote of no fewer than a majority plus one of the board prior to the event of death, resignation, removal of office or any other occurrence giving rise to the vacancies: or

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2. Absent such an ordinance, the temporary successors shall be chosen by the approving vote of no fewer than a majority plus one of the remaining board members.

If a quorum is impossible because of the vacancies, the requirement for a quorum shall be suspended for the purpose of choosing the temporary successors.

If at any time the legislature of Florida provides a method for prompt and temporary succession pursuant to Article II, Section 6 of the Florida Constitution, then any such method shall prevail over this section to the extent of any conflict.

Sec. 2.8.1 – Organizational Meetings

An annual organizational meeting of the Board of County Commissioners shall be held on the third Tuesday after the first Monday in November. At its organizational meeting the Board shall elect a ~~Chair~~ and Vice-Mayor by majority vote of those Commissioners present, to serve until the next organizational meeting. The ~~Chair~~ Vice Mayor shall not be eligible for consecutive re-election, and the succeeding ~~Chair~~ Vice Mayor shall not be a Commissioner from the same district. Except in the absence of the county mayor, the vice mayor shall serve as the official representative and ceremonial dignitary for the board; shall preside during the board of county commissioners' meetings and may execute documents approved by the board.

(Line above Sec. 2.9.4)

- This subsection ~~does not grants~~ the County ~~any~~ power of review of the budget of the School District.

2.9.4. In addition to its internal audits and such State audits as may be required by law, cause an annual independent post-audit by a certified public accountant of any and all government operations of County Government.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 13 Public Hearing 1

SUBJECT:

Article 3-Executive Branch

PETITIONER CONTACT:

Dontavious "Tay" Smith email: flanative_cocoa321@hotmail.com phone:(321)301-3835

REQUESTED ACTION:

Amend Article 3-Executive Branch, to define an elected at-large Mayor of Brevard County, and County Manager.

SUMMARY EXPLANATION & BACKGROUND:

See Attached Document

Staff Contact:

Melissa Brandt

Telephone Number:

(321) 301-4438

Email Address:

Melissa.Brandt@brevardfl.gov



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807 South Wilson Avenue. Cocoa, FL 32922
(321)301-3835 email: flanative_cocoa321@hotmail.com

Petitioner: Dontavious "Tay Duh Mayuh" Smith

Date: April 26, 2022

SUBJECT: ARTICLE 3 – EXECUTIVE BRANCH

REQUESTED ACTION:

AMEND ARTICLE 3 – EXECUTIVE BRANCH, TO DEFINE AN ELECTED AT-LARGE MAYOR OF BREVARD COUNTY, AND COUNTY MANAGER.

SUMMARY EXPLANATION & BACKGROUND:

THIS AMENDMENT WILL MODIFY THE STRUCTURE OF BREVARD COUNTY GOVERNMENT'S EXECUTIVE BRANCH. IT WILL DEFINE THE ROLE FOR MAYOR OF BREVARD COUNTY AND COUNTY MANAGER.

PROPOSAL:

ARTICLE 3 – EXECUTIVE BRANCH

Sec. 301 – County Administration

There shall be an executive branch having jurisdiction over all operations of the county government not herein assigned to the legislative branch or otherwise provided by this Charter. The executive branch shall be composed of an elected county mayor, an appointed county manager, the officers and employees of the administrative offices and executive divisions established by this Charter or created by the board, and the administrative offices and employees of all adjustment, regulatory and advisory boards and commissions, except as otherwise provided in this Charter.

Sec. 302 – County Mayor

The county mayor shall be a registered voter of and resident of Brevard County at the time of election to office and throughout the term of office. The office shall be a full-time position combining both the duties of ceremonial head and operational head of those activities within the jurisdiction of the board of county commissioners.

A. Compensation. The county mayor's salary shall be set by ordinance. The salary in effect at the beginning of a county mayor's term in office shall not be lowered during that term.

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B. Vacancy, incapacity, or absence due to military service. Vacancies in the office of the county mayor shall be defined and filled in accordance with state law. If the county mayor changes residence from Brevard County, he or she shall be deemed to have vacated such office. If the county mayor becomes permanently incapacitated and unable to perform his or her duties, a successor shall be chosen in the manner prescribed by general law. If the county mayor becomes temporarily incapacitated, or if the county mayor is absent for a prolonged period due to military service, then to the extent not inconsistent with general law a temporary substitute shall be chosen to serve during the incapacity or absence, as follows:

1. The temporary substitute shall be chosen in the manner provided by ordinance enacted by the approving vote of no fewer than a majority plus one of the board members prior to the beginning of the incapacity or prolonged absence; or

2. Absent such an ordinance, the temporary substitute shall be the person designated by the county mayor, if competent when the designation is made; or

3. Absent such a designation, the temporary substitute shall be chosen by the approving vote of no fewer than a majority plus one of the commissioners.

The county mayor shall continue to receive his or her compensation during the absence or temporary incapacity. Unless defined otherwise by ordinance, temporary incapacity means a situation or condition that renders the county mayor unable to perform his or her duties for a period of more than 90 consecutive days, but does not constitute a vacancy in the office. In no event shall any temporary substitute serve beyond the term of the county mayor.

C. Terms. The county mayor shall be elected for a term of four years and shall be limited to three full consecutive terms. The term of the county mayor shall commence the same day the terms of the commissioners from even-numbered districts commence.

D. Duties. The county mayor shall have the following powers and duties:



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1. Manage the operation of all elements of County Government under the jurisdiction of the board, consistent with the policies, ordinances and resolutions enacted by the board;
2. Serve as chair of the board of county commissioners;
3. Vote on all matters before the board;
4. Be responsible for the execution of all contracts and legal documents, but may delegate this authority;
5. Prepare and publish agendas for all meetings of the board and submit the annual budget estimate with a plan of action to meet the needs of the county for adoption by the board;
6. Appoint and dismiss heads of county departments, divisions and other agencies under the jurisdiction of the board except that all such appointments shall be made annually and shall be subject to confirmation by the board;
7. Assure the faithful execution of all ordinances, resolutions and orders of the board and all laws of the state which are subject to enforcement by the county mayor, or by officers who are subject under this Charter to the mayor's direction and supervision;
8. Present annually at a time designated by the board, a "Brevard County 321 Address" message, setting forth programs and recommendations to the board;
9. Supervise the daily activities of employees;
10. Serve as the official representative and ceremonial dignitary for the government of Brevard County, with prerogative to issue proclamations;
11. Sign ordinances, resolutions and documents for the board;
12. Call the board into regular and special session; and
13. Carry out other powers and duties as required by this Charter or may be prescribed by the board.

E. Filling vacancies when permissible under Florida law. If and to the extent that it should become lawful under the Constitution and laws of the State of Florida for this charter to prescribe a method for filling vacancies in the office of county mayor, this subsection shall immediately become effective.

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If a vacancy occurs in the office of county mayor and the remainder of the term of office is one year or less, then such vacancy shall be filled for the remainder of the term by appointment by a majority vote of the board of county commissioners.

If a vacancy occurs in the office of county mayor and the remainder of the term of office exceeds one year, then such vacancy shall be filled by a special election. The board of county commissioners, after first consulting with the supervisor of elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. The date of the election shall be a date no later than one hundred twenty (120) days after the occurrence of the vacancy.

Sec. 3.3 – County Manager

There shall be a county manager who shall be appointed by the county mayor and confirmed by the board and shall serve at the pleasure of the mayor. The county manager shall be nominated and selected on the basis of professional training and executive and administrative experience as set forth by ordinance. The county manager shall be employed on a full-time basis to assist the county mayor in the daily management of the county.

A. Compensation. The county manager's salary will be established by resolution of the board after recommendation by the county mayor.

B. Power and Duties. Upon a tied vote from the county commissioners, the county manager shall be the deciding vote make quorum for that agenda item.

C. Vacancy. The county mayor may designate a qualified county administrative officer or county employee to exercise the powers and perform the duties of the county manager during the county manager's absence or disability. If there is a vacancy in both the offices of county mayor and the county manager, the board shall designate by resolution a qualified person to perform the duties of the county manager.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 14 Public Hearing 1

SUBJECT:

Section 5.2 - Recall

PETITIONER CONTACT:

Dontavious "Tay" Smith email: flanative_cocoa321@hotmail.com phone: (321)301-3835

REQUESTED ACTION:

Amend this section to allow any elected official under the Charter pursuant to Sec 4.2 to be recalled.

SUMMARY EXPLANATION & BACKGROUND:

This proposal will allow electors the opportunity to recall any elected official who they feel violates the integrity and ethics of their office.

Sec. 5.2 - RECALL

The electors of the County shall have the power to recall any elected Charter officer named in Section 4.2 of this Charter in accordance with the laws of the State of Florida. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall.

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 15 Public Hearing 1

SUBJECT:

Section 7.4 Charter Review

PETITIONER CONTACT:

Dontavious "Tay" Smith email:flanative_cocoa321@hotmail.com phone(321)301-3835

REQUESTED ACTION:

Strike through the word sixth and replace it with the word "fourth"

SUMMARY EXPLANATION & BACKGROUND:

See Attached

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Melissa Brandt

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(321) 301-4438

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(321)301-3835 email: flanative_cocoa321@hotmail.com

Petitioner: Dontavious "Tay Duh Mayuh" Smith
Date: April 26, 2022

SUBJECT: SECTION 7.4 – CHARTER REVIEW

**REQUESTED ACTION:
STRIKE THROUGH THE WORD SIXTH AND REPLACE IT WITH THE WORD
"FOURTH".**

**SUMMARY EXPLANATION & BACKGROUND:
WHEREFORE THE CHARTER REVIEW COMMITTEE WILL MEET EVERY FOUR
YEARS INSTEAD OF SIX. THIS PROPOSAL WILL ALLOW EACH COMMISSIONER TO
HAVE AT LEAST ONE OPPORTUNITY TO PARTICIPATE IN THE CRC REVIEW
PROCESS.**

PROPOSAL:

Sec. 7.4 CHARTER REVIEW

Not later than July 1 of the year 1997 and of every ~~sixth~~ fourth year thereafter, the Board of County Commissioners shall appoint a Charter Review Commission to review the Charter of the County. Each Charter Review Commission shall consist of fifteen (15) persons, with not less than two (2) members residing in each Commission district. The Commission shall otherwise be appointed in the manner provided by law for the appointment of charter commissions in counties without charters. The Commission shall be funded by the Board of County Commissioners and shall be known as the "Brevard County Charter Review Commission." It shall, within one (1) year from the date of its first meeting, present to the Board of County Commissioners its recommendations for amendment of the Charter or its recommendation that no amendment is appropriate. If amendment is to be recommended, the Charter Commission shall conduct three (3) public hearings, at intervals of not less than ten (10) days, immediately prior to the transmittal of its recommendations to the Board of County Commissioners. The Board of County Commissioners shall schedule a referendum on the proposed

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charter amendments concurrent with the next general election. The Charter Review Commission may remain in existence until the general election for purposes of conducting and supervising education and information on the proposed amendments.

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 16 Public Hearing 1

SUBJECT:

Non-Partisan Election

PETITIONER CONTACT:

Dontavious "Tay" Smith email:flanative_coca321@hotmail.com phone (321)301-3835

REQUESTED ACTION:

Add a section to the Charter titled, "Non-Partisan Elections"

SUMMARY EXPLANATION & BACKGROUND:

This proposal will allow electors the opportunity to vote for a qualified candidate regardless of what political party their affiliated with, and will create a diverse candidate landscape for Brevard voters to choose from.

Proposal:

Elections for all Charter offices in Brevard County shall be nonpartisan. No candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates have qualified for any single office under

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:

the chartered government, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

It shall be a violation by a candidate to reference any political party affiliation during their

candidacy for any and all Charter offices. Any reference to any political party affiliation will be a \$ 365.00 per reference.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 17 Public Hearing 1

SUBJECT:

Amending Section 2.4 - Term Limits for County Commissioners

PETITIONER CONTACT:

Nicolas Tomboulides: 646-704-2466

NTomboulides@termlimits.com

REQUESTED ACTION:

Establishing a lifetime 2-term limit for county commissioners with no possibility of reentry. Amend the Brevard County Charter, Section 2.4, by striking the word "consecutive" from the final sentence of Section 2.4.

SUMMARY EXPLANATION & BACKGROUND:

Section 2.4 is amended as follows:

Section 2.4 Terms of Office

Each Commissioner shall be elected and serve for four (4) years, beginning on the second Tuesday after election, and continuing after such term until a successor is elected and qualified. The terms shall be staggered as presently provided by general law. No county commissioner shall serve more than two (2) ~~consecutive~~ terms. (Amd. 11-3-98; 11-7-00)

This amendment strengthens the current two-term limit for county commissioners by creating a limit on lifetime service as opposed to a limit on consecutive service. Under current law, formerly term-limited county commissioners may return to the commission after sitting out one term. This amendment would eliminate that loophole, creating a term limit much more consistent with citizens' intent to preclude political careerism.

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 18 Public Hearing 1

SUBJECT:

Recall Section 5.2

PETITIONER CONTACT:

Victor Luebker, vluebker@gmail.com 321-292-9088

REQUESTED ACTION:

Amend section 5.2 of the country charter to read as following:

Sec. 5.2. - Recall.

SUMMARY EXPLANATION & BACKGROUND:

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section ~~4.1.1~~ 4.2 of this Charter may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

Previously the charter called for the ability to recall members listed in section 4.1.1 of the charter and I'm suggesting this proposed changed to the reference in the charter corrects the error of that not being possible. It should be noted there is precedent for this proposal with the following counties also including the recall for county wide office holders. Those counties are Columbia, Duval and Sarasota.

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:

Last, that this change must follow the procedures outlined in section 100.361 of state statute as to "How" a recall election is to be conducted IAW state law.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 19 Public Hearing 1

SUBJECT:

PROPOSAL TO CORRECT SCRIVENER ' S ERROR IN SECTION 5.2 RECALL

PETITIONER CONTACT:

Blaise Trettis, Petitioner, 2021-2022 Charter Review Commission

REQUESTED ACTION:

Proposes the following amendment to correct the scrivener ' s error in section 5.2 Recall. Additional numbers are underlined; deleted numbers are stricken-through.

SUMMARY EXPLANATION & BACKGROUND:

See Attached

Staff Contact:

Melissa Brandt

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PROPOSAL TO CORRECT SCRIVENER'S ERROR IN SECTION 5.2 RECALL

Blaise Trettis (proponent), member of the 2021-22 Brevard County Charter Review Commission, proposes the following amendment to correct the scrivener's error in section 5.2 Recall. Additional numbers are underlined; deleted numbers are stricken-through.

Section 5.2. Recall

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section ~~4.2~~ 4.1.1, of this Charter may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

REASON FOR PROPOSAL

As explained by Commission attorney Paul Gougelman in his April 24, 2022 memorandum Recall issue; Constitutional Officers, in 2010 there was a scrivener's error in which the reference in Section 5.2 to Section 4.2 was mistakenly not changed to Section 4.1.1. Attorney Gougelman wrote that, "Fixing this glitch is easy." Attorney Gougelman's example of how to correct the scrivener's error is this proposal.

As an aside, proponent's research reveals that the following eight charter counties provide for the recall of county constitutional officers: 1) Brevard, § 5.2; 2) City of Jacksonville (i.e. Duval County), which expressly includes recall of school board members in addition to any officer elected in any consolidated government, § 15.01; 3) Orange, § 604; 4) Hillsborough, § 9.08; 5) Clay, § 3.2; 6) Miami-Dade, § 8.02; 7) Columbia, § 6.2; 8) Sarasota, § 6.3.

SERVICE OF PROPOSAL

This proposal was sent by e-mail on April 29, 2022, to: the members of the Brevard County Charter Review Commission; to Commission attorney Paul R. Gougelman; to Brevard County employees Jim Liesenfelt, Melissa Brandt.

BREVARD COUNTY

HOME RULE CHARTER

Adopted by Voters November 8, 1994

Effective Date January 1, 1995

Amended March 12, 1996

Amended November 3, 1998

Amended November 7, 2000

Amended November 5, 2002

Amended November 7, 2004

Amended November 4, 2008

Amended November 2, 2010



shall have the right to initiate County legislation that is not in conflict with the Charter, and to amend or repeal ordinances or repeal are not in conflict with law, upon petition signed by a number of electors qualified to vote in the last election that the number shall contain at least one elector in each of at least three

ive shall, prior to obtaining any signatures, proposed ordinance or Charter amendment to forms, with the proposed ballot summary and signatures will be affixed and obtain a dated available period for obtaining signatures on the petition not later than nine (9) months after the initiation by the Supervisor of Elections. The sponsor shall submit signed and dated forms to the Supervisor and upon submission shall pay all fees. The Supervisor of Elections shall within ten days collect signatures thereon, or specify a reason for rejection of a signature if the petition is rejected for insufficient number of valid signatures. If the petition is rejected for insufficient number of signatures, the sponsor shall have thirty (30) days within which to submit a new petition for verification. The Supervisor of Elections shall verify the additional signatures. In the event the signatures are still not acquired, the petition initiative shall be void and none of the signatures may be used in any subsequent identical or similar petition.

of County Commissioners.

After the requisite number of names has been obtained, the Supervisor of Elections and reported to the Board of County Commissioners shall

give notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the Board fails to enact the proposed ordinance, it shall by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered voters voting on the question, the proposed ordinance shall be declared by resolution of the Board of County Commissioners to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative, without the approval of a majority of the electors voting at a referendum called for that purpose.

5.1.3. Limitation on ordinances by initiative.

The power to enact, amend or repeal an ordinance or amend this Charter by initiative shall not include ordinances or provisions relating to the existing County budget, existing debt obligations, existing capital improvement programs, salaries of non-elected County officers and employees, the collection of taxes, or the rezoning of less than five percent (5%) of the total land area of the County.

SECTION 5.2. RECALL

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section 4.2 of this Charter may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

SECTION 5.3. LIMITATION ON DEBT OR ITS EQUIVALENT

PART A
CHARTER LAWS
CHARTER OF THE CITY OF JACKSONVILLE, FLORIDA

The Charter of the City of Jacksonville is set out herein as readopted by Chapter 92-341, Laws of Florida. Formerly, the Charter of the City of Jacksonville was derived from Chapter 67-1320, Laws of Florida, adopted by the Legislature of the State of Florida at its regular session in 1967, as amended. The first legal step to consolidated city-county government for Jacksonville occurred in 1934 when the Florida Constitution was amended to permit merger of Duval County and all of its cities. That government matured only after a legislative-directed study commission drafted a Charter with widespread public approval which was adopted as the Charter in 1967. The government was not the metropolitan form of Miami-Dade County, which had retained the county government, nor was it the chartered-county form later permitted by the Florida Constitution when it was revised in 1968. It essentially eliminated two governments (city and county) and replaced it with one.

Smaller communities in Duval County—the three beaches cities and the town of Baldwin—were reconstituted as urban services districts: they were permitted elements of local control but they henceforth would look to the new City of Jacksonville for the former functions of county government, and could draw on essential urban services such as police and fire from the central government. Through judicial and legislative action, these communities were restored to their municipal status: today the City of Jacksonville stands in the relationship of a county government to them, and they continue to function as municipal governments.

To conform to the traditional organization of Florida state government, Jacksonville retained the offices of Sheriff, Property Appraiser, Tax Collector, Supervisor of Elections and Clerk of the Circuit Court. But these officers are now considered not only as county officers but as officers of the Consolidated Government, and as such play an important role in its operation. Certain special functions were allotted to independent agencies appointed by the Mayor or Governor, while a measure of centralized control was held by the City through approval of their budgets and by requiring their use of the central services of the City. Consistent with the Charter's home rule objectives, the Council was permitted to modify this requirement for use of central services.

Through the years, legislation by both the Legislature and the Council have added to and subtracted from the Charter, in an attempt to achieve both aims of the Consolidated Government: government by the broadest representation of its citizens (exercising their home rule powers under the Florida Constitution) and the efficient response to urban problems.

History notes following a particular section indicate the complete history of amendatory legislation enacted subsequent to Chapter 67-1320, Laws of Florida. The indexes appearing at the beginning of each article, notes appearing at the end of various sections or at the beginning of an article or chapter and section and subsection headings enclosed in brackets are added editorially.

- (2) Within that part of the general services district not included within the second, third, fourth, and fifth urban services districts, at such millage rate as is authorized by the Constitution and general law for municipalities to levy.

(b) The second, third, fourth, and fifth urban services districts are each authorized to levy taxes upon all of the real and personal property within their respective districts assessed for taxes, annually, for the payment of debt service requirements of ad valorem bonds as authorized and required by law, and for all other purposes of the governments of each of said urban services districts, at such millage rate as is authorized by the Constitution and general law for municipalities to levy.

(Laws of Fla., Ch. 78-536, § 14; Ord. 84-1307-754, § 21; Laws of Fla., Ch. 92-341, § 1)

Section 14.08. Increases and decreases in millage limitations.

No increase shall be allowed in any of the millage limitations provided in section 14.07 unless first approved by a majority vote of those qualified electors voting in a special referendum in the district to be affected by any such proposed increase in such millage limitations. No such increase shall be effective for a period longer than 2 years. On the written petition or petitions of qualified electors representing not less than 20 percent in number of such electors voting in the last such special referendum in the general services district or 20 percent of such electors voting in the last such special referendum in an urban services district, a special referendum shall be held to consider a reduction in any millage limitation which has been previously increased under the provisions of this section. Not more than one such special referendum shall be held in any calendar year.

(Laws of Fla., Ch. 71-695; Ord. 84-1307-754, § 21; Laws of Fla., Ch. 92-341, § 1)

Section 14.09. Limitation on ad valorem taxes.

The Council shall not adopt any millage rate which would result in more than a three (3) percent increase in total ad valorem taxes levied on the preliminary taxable value (adjusted to exclude ad valorem taxes generated from new construction added in the current year) over the previous year's ad valorem tax levy. The Council shall not fail to reduce the millage rate should such action be necessary to ensure that this limitation on the ad valorem tax levy takes effect.

(Ord. 92-1073-753, § 1 (Referendum of November 3, 1992))

ARTICLE 15. REMOVAL OF OFFICERS

Sec. 15.01. Recall by voters.

Sec. 15.02. General and special elections.

Section 15.01. Recall by voters.

Any officer elected in any consolidated government or school board election may be removed from office in the following manner:

- (a) A petition demanding an election of a successor of the elected official sought to be removed shall be filled with the supervisor of elections.
- (b) In the petition for recall of a person elected in the city at large, there shall be included the signatures of qualified voters equal to 10 percent of the number of voters registered in that district at the time of the election of the person sought to be removed.

- (c) In the petition for recall of a person elected in a district election, there shall be included the signatures of voters qualified to vote in that district equal to 10 percent of the number of voters registered in that district at the time of the election of the person sought to be removed.

The petition shall contain a general statement of the grounds for which the removal is sought. Copies of petitions may be executed, but one of the signers of each copy shall affirm under oath before an officer competent to administer oaths that he believes that each signature to the copy is the genuine signature of the person whose name it purports to be. Within 15 normal working days from the date of filing such petition, the supervisor of elections shall examine the petition and ascertain whether the petition is signed by the required number of persons and whether such persons are qualified voters as shown by the registration books. He shall attach to the petition his certificate showing the result of such examination. If the supervisor of elections determines that the petition is insufficient, it may be amended within 15 days from the date of said certificate. The supervisor of elections shall, within 15 days after such amendment, make like examination of the amended petition. If he again determines that the petition is insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the supervisor of elections shall determine that any petition is duly executed and in proper form, he shall at once order and fix a date for holding a recall election not less than 30 days or more than 60 days from the date on which he determines the petition to be sufficient. The supervisor of elections shall make or cause to be made publication of notice of such recall election. A majority of the votes cast in such election shall be required to remove the officer. Upon such removal, a vacancy shall exist in the office.

(Laws of Fla., Ch. 69-1173; Laws of Fla., Ch. 72-572; Ord. 84-1307-754, § 13; Laws of Fla., Ch. 92-341, § 1)

Section 15.02. General and special elections.

(a) The city shall conduct elections for the offices of Council Member, Mayor, Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections and Civil Service Board Member pursuant to the procedures set forth herein. Elections shall be by majority vote.

(b) The names of all persons who qualify as candidates for election to an office referred to in subsection (a) shall be placed on the general election ballot. If one candidate in such election receives a majority of the votes for an office, that candidate shall be elected. If no candidate in such election receives a majority of the votes for an office, the names of the two (2) candidates receiving the highest number of votes for such office shall be placed on a run off election ballot. The Council by ordinance shall provide for procedures in the event of a tie. The party affiliation, if any, of each candidate shall be noted on the election ballot for each election. Special elections shall follow the procedures set forth in this section.

(Ord. 91-178-146, § 1 (Referendum of November 3, 1992))

ARTICLE 16. RETIREMENT AND PENSION BENEFITS

Sec. 16.01. Retirement and pension system authorized.

Sec. 16.02. Existing plans continued.

Sec. 16.03. Amendment of prior plans in certain respects.

Sec. 16.04. Election of membership by certain employees and membership of handicapped employees.

Sec. 16.05. Police and correctional officers; special provisions relative to disability.

Sec. 16.06. Funding and enhanced pension benefits for correctional officers.

Section 16.01. Retirement and pension system authorized.

verified by the supervisor of elections and reported to the board, the board shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1 of the succeeding year.

- B. *Ordinance.* Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall notice and hold a public hearing on the proposed petition according to law and vote on it. If the board fails to adopt the proposed petition, it shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be declared by resolution of the board to be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1, of the succeeding year. The board shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.
- C. The initiative power shall not be restricted, except as provided by general law and this Charter.

(Adopted November 1988)

Sec. 603. Limitation.

The power to enact, amend or repeal an ordinance by initiative shall not include ordinances relating to administrative or judicial functions of

county government, including but not limited to, county budget, debt obligations, capital improvement programs, salaries of county officers and employees and the levy and collection of taxes. (Renumbered pursuant to amendments adopted November 1988)

Sec. 604. Power of recall.

The electors of the county shall have the power to recall any elected Charter officer in accordance with the laws of the State of Florida. (Renumbered pursuant to amendments adopted November 1988)

State law reference—Recall, F.S. § 100.361.

Sec. 605. Nonpartisan elections.

Elections for all Charter offices shall be nonpartisan. No candidate shall be required to pay any party assessment or be required to state the party of which the candidate is a member. All candidates' names shall be placed on the ballot without reference to political party affiliation.

In the event that more than two (2) candidates have qualified for any single office under the chartered government, an election shall be held at the time of the first primary election and, providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the most votes shall be placed on the ballot for the general election.

(Created November 1992)

ARTICLE VII. GENERAL PROVISIONS

Sec. 701. Charter amendment by board.

The board, by a majority vote of all members, shall have the authority to propose amendments to this Charter subject to referendum of the general electorate, at any primary, general or special election.

(Amended November 1988)

Sec. 702. Charter review commission.

A. A Charter review commission shall be appointed by the board. The Charter review commission shall consist of not less than eleven (11) members and not more than fifteen (15) members.

It is the intent of the electorate in adopting this Charter that if any section, subsection, sentence, clause, term or word of this Charter is held invalid, the remainder of the Charter shall not be affected.

Section 9.06. Vacancies.

Vacancies in commission districts shall be deemed to exist and be filled in accordance with the Constitution and Laws of Florida.

Section 9.07. Public Meetings.

Meetings of the board of county commissioners and other boards shall be held and conducted as provided by general law and rules of the board not inconsistent therewith.

Section 9.08. Recall.

The people shall have the power to recall elected officials by recall election initiated, called, held and conducted as provided by general law for chartered counties.

Section 9.09. Planning.

There shall be for Hillsborough County and its municipalities a single local planning agency created by such special law or laws which need not be approved by a referendum. It shall have responsibility for comprehensive planning and related activities as are committed to it by general law or applicable special laws.

Section 9.10. Environmental Protection.

There shall be for Hillsborough County and its municipalities a single local environmental protection commission created by such special law or laws which need not be approved by referendum.

Section 9.11 Discrimination Prohibited.

To be consistent with federal and state constitutions, laws, rules, and regulations, the county government shall not deprive any person of any right because of race, sex, age, national origin, religion, physical handicap, or political affiliation. The administrative code shall provide adequate means for protecting these rights, including equal opportunity assurances.

Section 9.12. Lowering of Salaries.

The salaries of commissioners and the county administrator may be lowered to the extent allowed by general law.

X. Transition And Schedule**Section 10.01. Offices and Officers of Former Government.**

Unless otherwise provided by this Charter, all offices, officials, boards, commissions, and agencies of the former government shall continue to perform their respective duties and functions until such minimum time allowed for the adoption of an administrative code pursuant to Section 7.02. At said time, said duties and functions shall be performed in accordance with the administrative code.

Section 10.02. Interim County-Wide Districts.

CLAY COUNTY HOME RULE CHARTER

2009 Interim Edition



(b) Shall have free and unrestricted access to all of the employees, officials, records, and reports of the components and programs of County government directly under the Board of County Commissioners, and, where appropriate, may require all branches, departments, and officials of the components and programs of County government directly under the Board of County Commissioners to provide oral and written reports and to produce documents, files and other records.

(4) Assistant Commission Auditors shall be appointed by and be responsible to the Commission Auditor. The appointment of any Assistant Commission Auditor shall be subject to the appropriation of funds therefor by the Board of County Commissioners. The Commission Auditor shall have the sole authority to suspend or terminate any Assistant Commission Auditor with or without cause.

History.—Paragraph B(1) amended effective January 1, 1995, on proposal by 1993-94 Ch.Rev.Comm.; subparagraph A(1)(f) added effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.; subsection D added effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.

⁶ **Note.**—Effective October 1, 1999.

⁷ **Note.**—See Historical Notes for version in effect through December 31, 1994.

⁸ **Note.**—Effective October 1, 1999.

ARTICLE III

ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1: Elected County Constitutional Offices.

⁹ The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as elected constitutional offices and the powers, duties and functions shall not be altered by this Home Rule Charter, except that the powers, duties and functions of the Clerk of the Circuit Court shall be limited to those of clerk of the circuit court and recorder as described in Article VIII, §1(d), Constitution of the State of Florida. The Constitutional officers shall perform their executive and administrative functions as specified by law, except that the Clerk of the Circuit Court shall perform only the executive and administrative functions as specified by law with respect to those powers, duties and functions of the Clerk of the Circuit Court described in Article VIII, §1(d), Constitution of the State of Florida, as clerk of the circuit court and recorder.

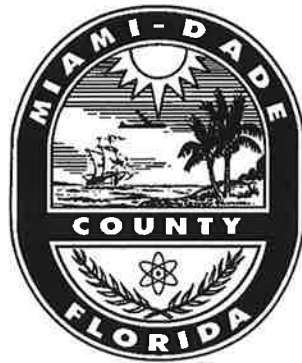
History.—Amended effective October 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.

⁹ **Note.**—See Historical Notes for version in effect through September 30, 1999.

Section 3.2: Recall.

Each of the constitutional offices described in Section 3.1 of this Article shall be subject to recall in the same manner, under the same procedures, and for the same grounds as are provided by general law for the members of the Board of County Commissioners.

History.—Added effective January 1, 1999, on proposal by 1997-98 Ch.Rev.Comm.



THE
HOME RULE
AMENDMENT
AND
CHARTER

(AS AMENDED THROUGH
NOVEMBER 4, 2008)

MIAMI-DADE COUNTY, FLORIDA

4. The Board may within 30 days after the date a sufficient petition is presented adopt the ordinance as submitted in an initiatory petition or repeal the ordinance referred to by a referendary petition. If the Board does not adopt or repeal the ordinance as provided above, then the proposal shall be placed on the ballot without further action of the Board.
5. If the proposal is submitted to the electors, the election shall be held either:
 - (a) In the next scheduled county-wide election, or
 - (b) If the petition contains the valid signatures in the county in numbers at least equal to eight percent of the registered voters in the county, the election shall take place on the first Tuesday after 120 days from certification of the petition. The result shall be determined by a majority vote of the electors voting on the proposal.
6. An ordinance proposed by initiatory petition or the repeal of an ordinance by referendary petition shall be effective on the day after the election, except that:
 - (a) Any reduction or elimination of existing revenue or any increase in expenditures not provided for by the current budget or by existing bond issues shall not take effect until the beginning of the next succeeding fiscal year; and
 - (b) Rights accumulated under an ordinance between the time a certified referendary petition against the ordinance is presented to the Board and the repeal of the ordinance by the voters, shall not be enforced against the county; and
 - (c) Should two or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest number of votes shall prevail as to those provisions.
7. An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Board for a period of one year after the election at which it was adopted, but thereafter it may be amended or repealed like any other ordinance.

SECTION 8.02. RECALL.

Any member of the Board of County Commissioners, the Mayor, the Property Appraiser, the Sheriff or Constable may be removed from office by the electors of the county, district,

or municipality by which he was chosen. The procedure on a recall petition shall be identical with that for an initiatory or referendary petition, except that:

1. The Clerk of the Circuit Court shall approve the form of the petition.
2. The person or persons circulating the petition must obtain signatures of electors of the county, district, or municipality concerned in numbers at least equal to four percent of the registered voters in the county district or municipality on the day on which the petition is approved, according to the official records of the County Supervisor of Elections.
3. The signed petition shall be filed with and canvassed and certified by the Clerk of the Circuit Court.
4. The Board of County Commissioners must provide for a recall election not less than 45 nor more than 90 days after the certification of the petition.
5. The question of recall shall be placed on the ballot in a manner that will give the elector a clear choice for or against the recall. The result shall be determined by a majority vote of the electors voting on the question.
6. If the majority is against recall the officer shall continue in office under the terms of his previous election. If the majority is for recall he shall, regardless of any defect in the recall petition, be deemed removed from office immediately.
7. No recall petition against such an officer shall be certified within one year after he takes office nor within one year after a recall petition against him is defeated.

ARTICLE - 9

GENERAL PROVISIONS

SECTION 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS.

A. On May 1, 1958, the following offices are hereby abolished and the powers and functions of such offices are hereby transferred to the Mayor, who shall assume all the duties and functions of these offices required under the Constitution and general laws of this state: County Tax Collector, County Surveyor, County Purchasing Agent, and County Supervisor of Registration. The Mayor may delegate to a suitable person or persons the powers and functions of such offices.

HOME RULE CHARTER FOR COLUMBIA COUNTY, FLORIDA

PREAMBLE

THE PEOPLE OF COLUMBIA COUNTY, FLORIDA, by the grace of God free and independent, in order to attain greater self-determination, to exercise more control over our own destiny, to create a more responsible and effective government, and to guarantee constitutional rights to all equally, do hereby ordain and establish this Home Rule Charter as our form of government for Columbia County.

ARTICLE 1

CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT

1.1 Creation and general powers of home rule charter government

Columbia County shall be a home rule charter county, and, except as may be limited by this Home Rule Charter, shall have all powers of self-government granted now or hereafter by the Constitution and laws of the State of Florida.

1.2 Body corporate, name and boundaries

Columbia County shall be a body corporate and politic. The corporate name shall be Columbia County. The county seat and boundaries shall be those designated by law on the effective date of this Charter.

1.3 Construction

The powers granted by this Home Rule Charter shall be construed broadly in favor of the charter government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government, as stated in this article. It is the intent of this article to grant to the charter government full power and authority to exercise all governmental powers necessary for the effective operation and conduct of the affairs of the charter government.

1.4 Special powers and duties of county

1.4.1 County purposes. *The county, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.*

1.4.2 Municipal purposes. *The county shall have all necessary powers to accomplish municipal purposes within special districts. Property situated within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents not within municipal boundaries, nor shall property situated in the county be subject to taxation for services provided by the county exclusively for the benefit of the property or residents within municipal boundaries. To this*

be completed not later than six months after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections and upon submission shall pay all fees required by general law. The Supervisor of Elections shall, within sixty (60) days after submission, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days verify the additional signatures. In the event sufficient signatures are still not acquired, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition.

6.1.2 Consideration by Board of County Commissioners. *Within sixty (60) days after the requisite number of names has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the board fails to enact the proposed ordinance, it shall, by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered electors voting on the question, the proposed ordinance shall be declared by resolution of the Board of County Commissioners to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative prior to the next succeeding general election, without the approval of a majority of the electors voting at a referendum called for that purpose.*

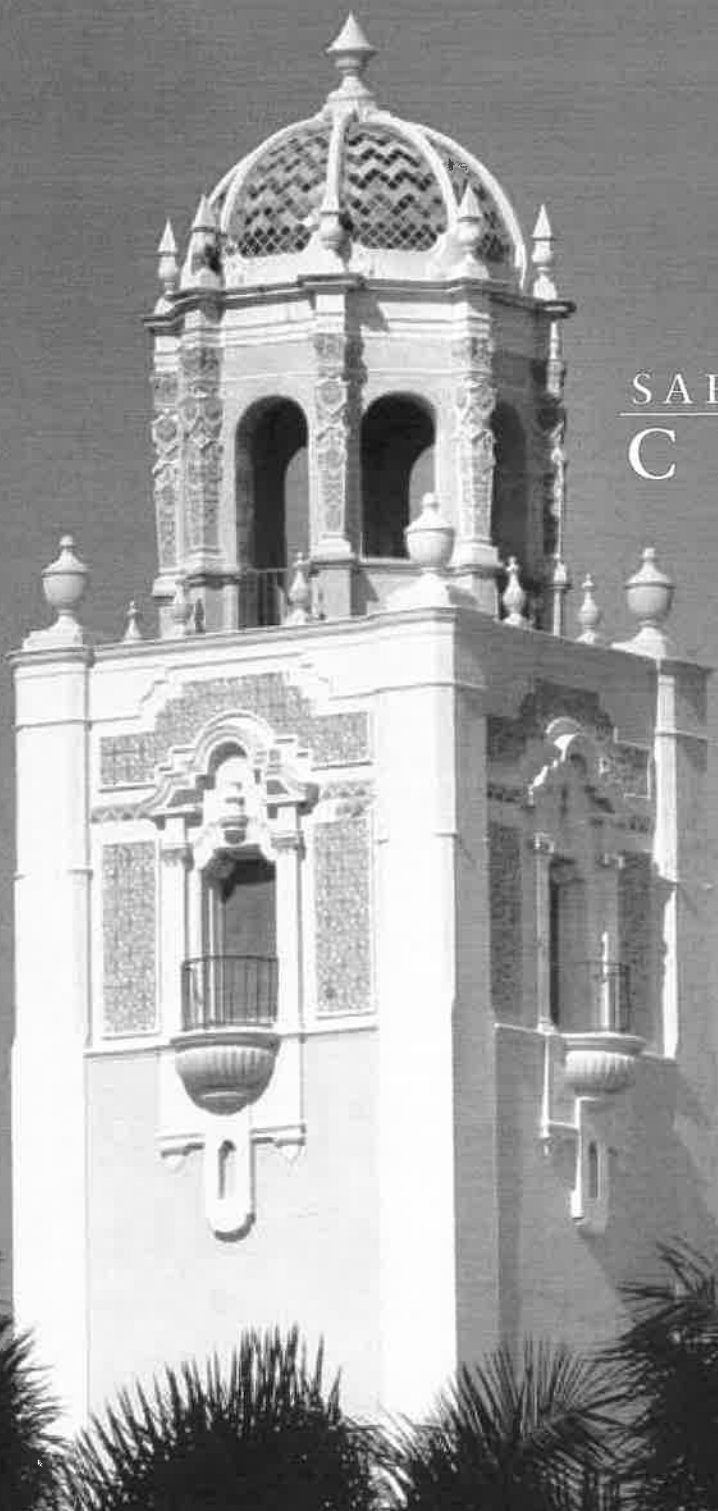
6.1.3 Limitation on ordinances by initiative *The power to enact, amend or repeal an ordinance or amend this Charter by initiative shall not include ordinances or provisions relating to administrative or judicial functions; the county budget; debt obligations, capital improvement programs, salaries of county officers and employees, the assessment or collection of taxes; or matters inconsistent with the Charter, the general laws of Florida, or the Florida Constitution.*

6.2 Recall

The County Commissioners shall be subject to recall as provided by general law. Any elected constitutional county officer may be recalled in the manner provided by general law for recall of a county commissioner of a charter county. A successor to the unexpired term of office of any recalled commissioner or elected constitutional county officer shall be selected in the manner provided by the Constitution or general laws of Florida for filling of vacancies in office after recall in charter counties.



SARASOTA COUNTY
CHARTER



CERTIFIED AS TRUE AND ACCURATE BY
KAREN E. RUSHING

CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER
SARASOTA, FLORIDA

JUNE 2008

precincts and of all Absentee, Provisional, and Military and Overseas (UOCAVA) ballots. Such comprehensive manual audit shall be completed within five days after the election, with the exception of comprehensive audits of Military and Overseas ballots, which shall be completed within five days after a primary election, and within 10 days after a general election. Audits shall be completed by a reputable independent and nonpartisan auditing firm as in (2) above. A copy of these audits shall be retained for public view and copying at the Supervisor of Elections Office in addition to being given to the County Commissioners. These audits shall be considered Florida public records pursuant to Florida Statute 119.

(Added 11/7/2006.)

Section 6.3 Recall. The procedures for the recall of a County Commissioner shall be as set forth in general law. The procedures for the recall of other elected County officers, including, but not limited to, the Sheriff, Supervisor of Elections, Tax Collector, Property Appraiser, and Clerk of the Circuit Court shall be the same as those for the recall of a County Commissioner. *(Amended 3/14/2000 and 11/7/2000.)*

Section 6.4 Method. Ordinances shall prescribe the method of calling special elections and referenda.

Section 6.5 Elections for County Office. As identified herein, County office for which compensation is paid shall be defined to include membership on the Board of County Commissioners, Clerk of the Circuit Court, Property Appraiser, Tax Collector, Supervisor of Elections, and Sheriff. County office for which compensation is not paid is membership on the Charter Review Board. *(Added 11/6/1990; Amended 11/5/1996 and 11/7/2000.)*

6.5A No candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$200. *(Amended 11/7/2000.)*

Section 6.6 Enforcement. Within sixty (60) days of the adoption of this Article, the Board of County Commissioners shall adopt by ordinance provisions for the enforcement of this Article, including reasonable penalties for any willful violation. *(Amended and Renumbered 3/14/2000.)*

Section 6.7 Qualification. Anyone who wishes to qualify for an elected position in Sarasota County that requires residency within a specific district must have resided within that district for six (6) months immediately prior to qualification. Anyone who wishes to qualify for a



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 2, 2022

AGENDA ITEM NUMBER: Proposal 20 Public Hearing 1

SUBJECT:

Proposed Charter Amendment: Addition of "subsection 3" to Article 7, sec. 7.4.1. (Procedural guidance in the event that the 3 person panel rejects the amendment or ballot language).

PETITIONER CONTACT:

Gabriel Jacobs-Kierstein (321-366-9686) GJacobs.attorney@outlook.com
Post Office Box 410354, Melbourne, Florida 32941

REQUESTED ACTION:

Place the proposed charter amendment on the next Charter Review Commission agenda (hereinafter "CRC"), so that the 3 requisite public hearings can be properly noticed and held, prior to a vote. This proposal was submitted before the 5/2/2022 deadline.

SUMMARY EXPLANATION & BACKGROUND:

Article 7, section 7.4.1.(2) is silent on what occurs if a proposed amendment or ballot language is rejected by the 3 person panel appointed to review them. At the last CRC meeting on April 21st, 2022, counsel for the Commission, Mr. Gougelman, discussed the lack of procedural guidance on this issue. Additionally, the Chair, as well as other Commissioners, voiced a concern that this discrepancy could cause a host of other problems. Section 7.4.1.(2) currently sets forth the procedure and criteria for approval, but does not speak to the inverse. The proposed charter amendment serves to cement an equitable and efficient means of handling this. Furthermore, the amendment aids in fostering a more transparent and impartial process. Please see "subsection 3" below (a formal-underlined version has been attached in a separate document):

Staff Contact: Melissa Brandt
Telephone Number: (321) 301-4438
Email Address: Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:

Sec. 7.4.1. Independent review of proposed charter amendments.

3. The three (3) person panel shall submit its findings for each proposed amendment to the Charter Review Commission within ten (10) calendar days of receipt and shall include a comprehensive written report in support of the conclusion(s) made. If the three (3) person panel rejects the proposed amendment or ballot language, it shall be sent back to the Charter Review Commission, during regular session, for a reasonable opportunity to cure any defect. The panels written report shall include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) should be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to remedy.

County Charter Provision Comparisons

Updated December 2020

LEGISLATIVE BODY										
County	Size	How Elected	Partisan Election -- Y/N	Length of Term	Term Limitation	Adjustments to Salary	Separates Legislative & Executive Functions	Specifie s Non- Interfe- rence Clause	Administra- tive Code Required	Recall
Alachua	5	District (§2.2)	Silent	4	N	Statute	Y (§2.1)	N	Y(§2.2)	Y (§2.2)
Brevard	5	District (§2.1;2.3)	Silent	4 (§2.4)	2 (§2.4)	Ordinance (even-numbered years)(§2.6)	Y (§1.5)	Y (§3.4)	Y (§2.10.2)	Y (§5.2)
Broward	9	District (§2.01(A)1)	Y (§2.01(B))	4	3 (§2.02)	Statute (§2.01(D))	Y (§1.02(c))	Y(§2.07)	Y (§2.13)	Y (§1.04(M))
Charlotte	5	District/At Large (§2.2)	Silent	4	Silent	Statute	Y	Y	Y	Y
Clay	5	District	Silent	4	2	Charter (majority vote in general election)	Y	Y	Y	Y
Columbia	5	District (§2.1)	N (§2.3;5.3)	4	N	Statute (§2.5)	Y (§1.6)	Y (§3.4)	Y (§2.8(6))	Y
Duval	19	14 District/5 At Large (§5.02)	Silent	4 (§5.03)	2 (§5.041)	Charter (§5.04, 9.12)	Y (§4.01)	N	Y	Y (§15.01)
Hillsborough	7	4 District/3 At Large (§4.03)	Y	4		Ordinance (§4.07)	Y (§3.01)	N	Y (§7.01)	Y (§9.08)
Lee	5	District/At Large (§2.2(A))	Y (§ 2.2A)	4	3	Statute (§2.2(C))	Y (§2.1)	Y (§2.2(I))	Y (§2.2(E))	Y (§2.2(G))
Leon	7	5 District/2 At Large (§2.2(1))	N	4	Silent	Ordinance (§2.2(3))	Y (§§1.8, 2.1)	Y	Y (§2.2(6))	Y (§4.2)
Miami-Dade	13	13 District (§1.04)	N (§3.3)	4 (§3.01)	2 (§3.01(E))	Charter (§1.06)	Y (§1.01,§2.02)	Y (§4.04)	Y (§1.02(H))	Y (§8.02)
Orange	7	6 District/Mayor-At Large (§201)	N (§605)	4 (§204(A))	2 §(204(B))	Ordinance (§2.05)	Y (§108)	Y (§212)	Y (§211)	Y (§604)

County Charter Provision Comparisons

Updated December 2020

LEGISLATIVE BODY										
County	Size	How Elected	Partisan Election -- Y/N	Length of Term	Term Limitation	Adjustments to Salary	Separates Legislative & Executive Functions	Specifics Non-Interference Clause	Administrative Code Required	Recall
Osceola	5	District/At Large (§2.2(A))	Silent	4	Silent	Statute (§2.2(C))	Y (§2.1)	Silent	Y (§2.2)(E))	Y (§2.2(G))
Palm Beach	7	District (§2.2)	Y-except non-partisan for property app, sheriff, sup. of elections (§4.1.a)	4	2	Statute	Y (§2.1)	Y (§2.5)	Y (§2.4)	Y (§5.2)
Pinellas	7	4 District/3 At Large (§3.01)	Silent	4	Silent	Statute (§3.01)	Y (§3.01, §4.01(c))	N	Silent	Silent
Polk	5	District/At Large (§2.1)	Y (§5.2.1)	4 (§2.4)	12 (§2.3)	Charter (§2.5)	Y (§1.6)	Y (§3.4)	Y (§2.10)	Y (§6.2)
Sarasota	5	District/At Large (§2.1A)	Silent	4 (§2.1A)	2 (§2.1A)	Charter (§2.1B)	Silent	Y	Y	Y
Seminole	5	District/At Large (§2.2A)	Silent	4 (§2.2A)	Silent	Ordinance	Y (§2.1)	Y (§2.2(I))	Y (§2.2E)	Y (§2.2G)
Volusia	7	5 District/1 At Large/1 Chair At Large (elected) (§301)	N (§904)	4 (§303.1)	2 (§303.5)	Charter (§304)	Y (§203)	Y (§404)	Y (§308.1)	Silent
Wakulla	5	District/At Large (§2.1)	Silent	4 (§2.4)	N	Statute (§2.5)	Y (§1.6)	Y (§3.4)	Y (§§2.8,2.9)	Y (§6.2)

EXECUTIVE BRANCH									
				County Executive					
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Alachua	Appointed	Majority (§2.3(A)(2))	Majority vote, after hearing if requested by CM (§2.3(A)(2))	Silent	Ordinance	Charter/ Ordinance	Cty Mgr/BoCC majority vote confirmation (§2.3(B)(1))	Cty Manager (§2.3(B)(2))	Either
Brevard	Appointed	Silent	Silent	Silent	Contract	Charter (§3.3)	Mgr/BoCC Approval (§4.5.1)	Manager (§4.5.1)	Either (§4.5.1)
Broward	Appointed	6/9	Majority	Silent	Silent	Charter	Adm/BoCC Majority Approval	Administrator	Silent
Charlotte	Appointed (§2.3(A)(1))	4/5 (§2.3(A)(2))	4 outright or 3 out of 5 @ at 2 meetings 2 weeks apart (§2.3(A)(4))	Either (§2.3(A)(4))	Ordinance (§2.3(A)(2))	Charter (§2.3(A)(1))	Adm/BoCC Advice & Consent (§2.3(B)(1))	Administrator (§2.3(B)(2))	Either (§2.3(B)(2))
Clay	Appointed (§2.3(A)(1))	Majority (§2.3(A)(1))	Majority (§2.3(A)(1))	Either (§2.3(A)(1))	Silent	Charter (§2.3(A)(1))	Administrator (§2.3(B)(1))	Manager/ BCC appeal (§2.3(B)(2))	Either (§2.3(B)(2))

EXECUTIVE BRANCH									
				County Executive					
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Columbia	Appointed	Majority (§2.8(1))	Majority/at 2 meetings or super-majority at one meeting (§2.8(1))	Either	Contract (§3.2) subject to annual review by BoCC	Charter (§3.3)	Manager (§3.3(10))	Manager (§3.3(10);§4.2)	Either/BoCC approval; Dept Head can appeal to BoCC (§4.2)
Duval	Mayor Elected (§6.01)	4 years	Silent	Silent	Silent	Silent	Mayor/Council Confirmation	Silent	Silent
Hillsborough	Appointed (§5.01)	5/7(§5.03(1))	5 or 4 @ 2 meetings (§5.03(1))	Either (§5.03(1))	Ordinance (§5.03(2))	Silent	Adm w/BoCC Consent (§5.01)	Administrator (§5.01)	Either (§5.01)
Lee	Appointed (§2.3(A)(1))		Majority (§2.3(A)(1))	Either (§2.3(A)(1))	Contract	Charter (§2.3(A)(1))	Manager (§2.3(B))	Manager (§2.3(B))	Either (§2.3(B))

EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Leon	Appointed (§2.3(1))	Majority + 1	Majority +1	Silent	Contract	Charter (§2.3(1)(A))	Administrator does not include county attorney and TDC staff (§2.3(2))	Administrator (§2.3(2))	Either (§2.3(2))
Miami-Dade	Mayor Elected (§2.02)	Elected-2 time term limit				Charter	Mayor	Mayor	
Orange	Mayor Elected (§3.02)	Elected				Charter	Mayor	Mayor	
Osceola	Appointed (§2.3(A)(1))	Majority	Silent	Silent	Silent	Charter (§2.2(A)(1))	Adm w/BoCC Advice & Consent	Administrator (§2.2(B)(2))	Either (§2.2(B)(2))
Palm Beach	Appointed (§2.4)	Majority (§2.4)	Silent	Silent	Silent	Charter	Adm/w BoCC Advice & Consent (§4.2)	Silent	Silent

EXECUTIVE BRANCH									
County Executive									
County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Pinellas	Appointed	5/7 (§4.01(a))	4/5 at 2 meetings (§4.01(a))	Silent	Silent	Charter (§4.01(C))	Adm/BoCC Approval for unclassified positions (§4.01(C)(2))	Adm/BoCC Approval for unclassified positions (§4.01(C)(3))	With
Polk	Appointed	Majority of entire commission (§2.8(1))	Majority at 2 meetings (§2.8(1))	Silent	Contract (§3.2)	Charter	Adm/BoCC Approval (§4.2)	Administrator (§4.2)	Either (§4.2)
Sarasota	Appointed (§2.6A)	4/5 (§2.6B)	4 or 3/5 @ 2 meetings 3 weeks apart (§2.6B)	Silent	Silent	BCC and Charter (§2.6F)	Adm/BoCC Confirmation (§2.6F)	Adm/BoCC Confirmation (§2.6F)	Either (§2.6F)
Seminole	Appointed (§2.3(A)(1))	Majority	Majority	Either (§2.3(A)(1))	Silent	Charter (§2.3(A))	Adm/BoCC Confirmation (§2.3(B))	Administrator	Either
Volusia	Appointed (§401)	Silent	Silent	Silent	Silent	Charter (§403)	Adm/Council Approval (§602)	Silent	Silent

EXECUTIVE BRANCH**County Executive**

County	Selection of County Executive	Method of Appointment	Method of Termination	With or Without Cause	Terms/ Conditions of Employment	Powers and Duties	Appointment of Dept. Heads	Termination of Department Heads	With or Without Cause
Wakulla	Appointed (§3.1)	Silent	Silent	Silent	Contract (§3.2)	Charter (§3.3)	Silent	Silent	Silent

COUNTY ATTORNEY					
County	Method of Appointment	Method of Termination	With or Without Cause	Appointment of Assistant County Attorneys	Termination of Assistant County Attorneys
Alachua	BoCC (§2.3(C))	Silent	Either (§2.3(C))	Silent	Silent
Brevard	BoCC	Silent	Silent	Silent	Silent
Broward	BoCC (§2.10)	Silent (§2.10)	Silent (§2.10)	County Atty (§2.10(C))	Silent
Charlotte	BoCC (§2.3(D))	Silent	Silent	Silent	Silent
Clay	Majority (§2.3(C)(1))	Majority (§2.3(C)(1))	Either (§2.3(C)(1))	County Attorney (§2.3(C)(2))	County Attorney (§2.3(C)(2))
Columbia	Elected Non-Partisan	Not Applicable	Not Applicable	County Attorney	County Attorney
Duval	Mayor/Council Confirm (§7.03)	Mayor or Council (§7.06)	With/Council Confirm (§7.206)	General Counsel (§7.207)	Silent
Hillsborough	5 (§6.03(1))	5 or 4 @ 2 meetings (§6.03(1))	Either (§6.03(1))	County Attorney (§6.01)	County Attorney (§6.01)
Lee	Majority (§2.3(C)(1))	Majority (§2.3(C)(1))	Either (§2.(C)(1))	County Attorney (§2.(C)(5))	County Attorney (§2.3(C)(5))
Leon	BoCC (§2.4)	Silent (§2.3)	Either (§2.4.1)	Silent	Silent
Miami-Dade	BoCC subject to Mayor veto/override (§5.06)	Silent	Silent	County Attorney (§5.06)	Silent
Orange	Silent	Silent	Silent	Silent	Silent

COUNTY ATTORNEY					
County	Method of Appointment	Method of Termination	With or Without Cause	Appointment of Assistant County Attorneys	Termination of Assistant County Attorneys
Osceola	Majority (§2.3(C))	Silent	Silent	Co Atty subject to budget approval (§2.3(C))	Silent
Palm Beach	BoCC (§4.3)	Silent	Silent	County Attorney subject to budget approval (§4.3)	Silent
Pinellas	County Attorney Oversight Committee (§4.2(a))	Silent	Silent	Co Atty/BoCC App (§4.02(6))	Silent
Polk	BoCC (§4.3)	Majority (§4.3)	Silent	Silent	Silent
Sarasota	BoCC (§2.7)	Silent	Silent	Silent	Silent
Seminole	Majority (§2.4)	Majority (§2.4)	Either (§2.4)	County Attorney (§2.4)	County Attorney (§2.4)
Volusia	Council (§III.A.1)	Silent	Silent	Silent	Silent
Wakulla	BoCC (§4.1)	Silent	Silent	Silent	Silent

ELECTED CONSTITUTIONAL OFFICERS				
County	Affects Status of Elected Constitutional Officers	Describe Change	Does Charter Provide for Recall of Elected Officials	School Board
Alachua	N (§3.1)		Silent	
Brevard	Y (§4.1;4.2)	Makes them county officers (§7.23)	Y (§4.1.2; §5.2)	Elections procedures (§8.1)
Broward	Y (§3.06)	Abolished Tax Coll/Clerk Audit Functions Now Dept. of Financial Svcs & Adm	Silent	
Charlotte	N (§3.1)		Silent - residency requirements (§3.1)	
Clay	Y (§3.1)	Manager is Board Clerk and performs Clerk finance functions (§2.3 (4)(1)f); creates a Commission Auditor; constituional officers term limits (§2.3 (D))	Y (§3.2)	
Columbia	N (§5.1)		Silent	
Duval	Y	Mayor Elected; Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections - elected charter offices (2 term limits)	Y (§15.01)	Y (Article 13)
Hillsborough	N (§1.02)		Silent	
Lee	Y (§3.1)	SOE: Non-Partisan §§3.1;3.2 (A)	Silent	
Leon	Y (§3.1)	SOE: Non-Partisan §3.2 (A)	Silent	
Miami-Dade	Y (§9.01)	Sheriff abolished; Tax Collector and Clerk finance functions now Dept. of Financial Admininstration; transferred functions to Mayor; elected Property Appraiser	Y (§8.02)	

ELECTED CONSTITUTIONAL OFFICERS				
County	Affects Status of Elected Constitutional Officers	Describe Change	Does Charter Provide for Recall of Elected Officials	School Board
Orange	Y (§703)	Clerk of Court/Comptroller; removes charter status of Property App; Tax Collector; SOE; Sheriff and reinstates constitutional status (§703); Sheriff, Property Appraiser, SOE and Clerk of Court into nonpartisan, elected charter officers subject to term limits of 4 consecutive year terms, abolishing status as constitutional officers	Silent	
Osceola	Y (§3.1)	Clerk functions transferred to Manager	Silent	
Palm Beach	Y (§4.1.a)	Property Appraiser; Sheriff; Supervisor of Elections - nonpartisan	Silent	
Pinellas	N (§4.03)		Silent	
Polk	Y (§5.1; 5.2)	Non-partisan for Clerk, Property Appraiser, Supervisor or Elections, Sheriff, Tax Collector	Silent	
Sarasota	Y (§2.4)	4 Yr Term Limits for Constitutional Officers	Y	
Seminole	N (§3.1)		Silent	
Volusia	Y (§601.1)	Tax Coll/Clerk now Dept. of Finance & Adm; Sheriff, SOE, Property Appraiser Appointed as Department Directors	Silent	
Wakulla	N (§5.1)		Silent	

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Lee	5% (§2.2(H)(1))	180 days (§2.2(H)(2))	45 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Leon	10% (§4.1(1))	1 year (§4.2(2))	60 days (§4.2(3))	General Election (§4.2(3))	Specified in charter (§4.2(4))	Y
Miami-Dade	4% (§8.01)	120 days	60 days after legal review report	Next Countywide Election or if 8% signatures, special election	Specified in charter	Y
Orange	7% (§601(B))		30 days (§602(B))	Next election, 45 days after Res by BoCC (§602(B))	Specified in charter (§603)	Y (§602)
Osceola	7% (§2.2(H)(1))	180 days (§2.2(H)(2))	60 days (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Palm Beach	7% (§5.1)	Silent	45 days subject to verification by SOE (§5.1)	General Election (§5.1)	Specified in charter (§5.1)	Silent
Pinellas	Silent	Silent	Silent			

INITIATIVE TO ENACT, AMEND OR REPEAL COUNTY ORDINANCES						
County	% of Registered Electors Required on Petition	Time Limitation to Gather Signatures	Time Limit for County Commission to Take Action	If Referendum is Required it will be scheduled at:	Limitation on Subject Matter for Initiative Petitions	Approval as to Form
Polk	6% (§6.1)	1 year (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent
Sarasota	Silent					Silent
Seminole	5% (§2.2(H)(1))	6 mos (§2.2(H)(2))	60 (§2.2(H)(3))	General Election (§2.2(H)(3))	Specified in charter (§2.2(H)(4))	Y (§2.2(H)(2))
Volusia	Silent				Silent	Silent
Wakulla	30% (§6.1)	6 mos (§6.1.1)	60 days (§6.1.2)	General Election (§6.1.2)	Specified in charter (§6.1.3)	Silent

METHODS TO AMEND CHARTER AMENDMENT BY PETITION						
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements	Other
Alachua		10% (§4.2(A)(1))	180 days (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))	
Brevard	Y (§7.3.2.1)	4% (§7.3.2)	9 mos (§7.3.2.4;§5.1.1)	Special Election (§7.3.3)	Majority (§7.3.3)	
Broward		7%	180 days	See charter (§7.01(G)(1)&(2))	Majority (§7.01(I))	
Charlotte		10% (4.2(B)(1))	90 days (4.2(B)(1))	General Election (§4.2(B)(1))	Majority (§4.2(B)(3))	
Clay		10% (§4.2(A)(1))	180 days (§4.2(A)(3))	General Election (§4.2(A)(2))	Majority (§4.2(A)(4))	
Columbia		10% (§8.3.2(2))	6 mos (§8.3.2)	General Election (§8.3.3)	Majority (§8.3.3)	
Duval		5% (§18.05(a))	180 days	Next Countywide General Election (§18.05(h))	Majority (§18.05)	
Hillsborough		8% (§8.03(1))	6 mos (§8.03(1))	General Election (§8.04)	Majority (§8.04)	
Lee		7% (§4.1(A)(1))	90 days (§4.1(A)(2))	General Election (§4.1(A)(4))	Majority (§4.1(A)(4))	
Leon		10% (§5.2(1)(A))	1 year (§5.2(1)(A))	General Election (§5.2(1)(B))	Majority (§5.2(1)(B))	
Miami-Dade	N	10% (§9.07(A))	Silent	General Election	Majority (§9.07(D))	
Orange	N	10% (§601(A))	180 days (§601(A))	Next General Election (§602(A))	Majority (§602(A))	Providing for single subject, legal review, comptroller prepared financial impact statement and public hearing requirements; ensuring equal percentage of signatures from all commission districts
Osceola	N	10% (§4.2(A)(1))	180 days (§4.2(A)(2))	Special Election (§4.2(A)(1))	Majority (§4.2(A)(3))	
Palm Beach	N	7% (§6.3)	Silent	General Election or presidential primary (§6.3)	Majority (§6.3)	
Pinellas	N	8% (§6.02(1))	240 days (§6.02(2))	General Election or special call referendum (§6.02(1))	Majority (§6.02(1))	Brief financial impact statement prepared by county auditor placed on ballot with proposed charter amendment
Polk	Y (§8.3.2)	7% (§8.3.2)	1 year (§8.3.2, §6.1.1)	General Election - cannot be held sooner than 60 days after amendment proposed or validated (§8.3.3)	60% (§8.3.3)	60% (§8.3.3)
Sarasota	N	10% (§7.1)	Silent	General Election (§7.1)	Majority (§7.1)	Majority (§7.1)

METHODS TO AMEND CHARTER AMENDMENT BY PETITION						
County	Subject Matter Exclusions	% of Registered Electors Required on Petition	Time Limit to Gather Signatures	Referendum Will Be Scheduled	Voting Requirements	Other
Seminole	N	7.5% residing in 3/5 (§4.2(A)(1))	6 mos (§4.2(A)(2))	General Election (§4.2(A)(1))	Majority (§4.2(A)(3))	Majority (§4.2(A)(3))
Volusia		5% (§1302.2)	Silent	General Election (§1302.3)	Majority (§1302.3)	Majority (§1302.3)
Wakulla	Y (§7.3.2)	30% (§7.3.2)	6 mos (§7.3.2, §6.1.1)	General Election (§7.3.3)	Majority (§7.3.3)	Majority (§7.3.3)

AMENDMENT BY CHARTER REVIEW COMMISSION

County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Alachua	Y (§4.2(B))	Every 10 years (§4.2(B)(1))	11-15 (§4.2(B)(1))	General Election (§4.2(B))	Majority (§4.2(B)(5))	Silent
Brevard	Y (§7.4)	Every 6 years (§7.4)	15 (§7.4)	Special Election (§7.4.1)	Majority (§7.4.1)	Silent
Broward	Y	Every 12 years	19	General Election	2/3 vote (§6.02)	Y (§11.07)
Charlotte	Y (§4.(C)(1))	Every 6 years (§4.2(C)(1))	15/ 3 alternate (§4.2(C)(1))	General Election (§4.2(C)(1))	Majority (§4.2(C)(5))	Silent
Clay	Y (§4.2(B)(1))	Every 4 years (§4.2(B)(1))	15/5 alternates (§4.2(B)(1))	General Election (§4.2(B)(5))	Majority (§4.2(B)(5))	
Columbia	Y (§8.4)	Every 8 years (§8.4)	Silent	General Election (§8.4(3))	Silent	Silent
Duval	N					
Hillsborough	Y	Every 5 years (§8.02)	14 (§8.02)	General Election (§8.04)	2/3 vote (§8.04)	Y

AMENDMENT BY CHARTER REVIEW COMMISSION

County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Lee	Y	Every 8 years (§4.1(B)(1))	15 (§4.1(B)(1))	General Election (§4.1(B)(4))	Majority (§4.1(B)(4))	N
Leon	Y	Every 8 years (§5.2(2)(A))	BoCC decides	General Election (§5.2(2)(A))	Silent	Silent
Miami-Dade	N					
Orange	Y (§7.02)	Every 4 years (§7.02(B))	11-15 (§7.02(A))	General Election (§7.02(B))	Silent	
Osceola	Y(§4.2(C)(1))	Every 4 years (§4.2(C)(1))	11 (§4.2(C)(2))	Silent	2/3 vote (§4.2(C)(8))	Silent
Palm Beach	N					
Pinellas	Y	Every 8 years (§6.03(a))	13 (§6.03(a))	General Election (§6.03(c))	Silent	Y (§6.06)

AMENDMENT BY CHARTER REVIEW COMMISSION

County	Appointment of Charter Review Commission Specified in Charter?	When Appointed	Size of Commission	Election Scheduled	Voting Requirements of Commission	Financial Impact Statements
Polk	Y	Every 8 years (§8.04)	13 (§8.4)	General Election (§8.4)	Silent	Silent
Sarasota	Elected (§2.8A)	4 year terms (§2.8A)	10 (§2.8A)	Next Countywide Election (§7.1)	2/3 (§2.8B)	Silent
Seminole	Y (§4.2(B))	Every 6 years (§4.2(B)(1))	15 (§4.2(B)(1))	General Election (§4.2(B)(1))	Majority (§4.2(B)(4))	Silent
Volusia	Y (§1303)	Every 10 years (§1303)	According to general law (§1303)	General Election (§1303)	Silent	Silent
Wakulla	Y (§7.4)	Every 8 years (§7.4)	15 (§7.4)	General Election (§7.4)	Not less than 10 members (§7.4)	Silent

CHARTER AMENDMENT BY COUNTY COMMISSION

County	Amendment Proposed by Ordinance Approved by	Referendum Will Be Scheduled	Voting Requirements
Alachua	Majority + 1 (§4.2(C)(1))	General Election (§4.2(C)(2))	Majority (§4.2(C)(2))
Brevard	Not less than 4 (§7.3.1)	Special/concurrent with countywide	Majority
Broward	Majority + 1 (§2.06)	General Election	Majority
Charlotte	Majority (§4.2(A))	General Election (§4.2(A))	Majority (§4.2(A))
Clay	Majority (§4.2(C)(1))	Next General or Special Election (§4.2(C)(1))	Majority (§4.2(C)(1))
Columbia	Majority + 1 (§8.3.1)	General Election (§8.3.3)	Majority (§8.3.3)
Duval	Silent	Silent	Silent
Hillsborough	5 (§8.01)	Special Election or Regular Election as directed by BoCC (§8.04)	Majority (§8.04)
Lee	Majority (§4.1(C)(1))	General Election (§4.1(C)(2))	Majority (§4.1(C)(2))
Leon	Majority + 1 (§5.2(3)(A))	General Election (§5.2(3)(A))	Majority (§5.2(3)(B))
Miami-Dade	Resolution of BoCC (§9.07(A))	General Election	Majority
Orange	Majority (§7.01)	Primary, General or Special Election (§7.01)	Silent

CHARTER AMENDMENT BY COUNTY COMMISSION

County	Amendment Proposed by Ordinance Approved by	Referendum Will Be Scheduled	Voting Requirements
Osceola	Majority + 1 (§4.2(B)(1))	Special Election (§4.2(B)(1))	Majority (§4.2(B)(1))
Palm Beach	4 (§6.3)	Presidential Election Ballot (§6.3)	Majority (§6.3)
Pinellas	Majority + 1 (§6.01)	Next Countywide or Special Election (§6.01)	Majority (§6.01)
Polk	Majority + 1 (§8.3.1)	General Election (§8.3.3)	60% (§8.3.3)
Sarasota	Silent	Special Election (§7.1)	Majority (§7.1)
Seminole	Majority (§4.2(C)(1))	General Election (§4.2(C)(1))	Majority (§4.2(C)(1))
Volusia	2/3 vote of Council (§1302.1)	General Election (§1302.3)	Majority (§1302.3)
Wakulla	Majority + 1 (§7.3.1)	General Election (§7.3.3)	Majority (§7.3.3)

INTERGOVERNMENTAL RELATIONS	
County	"
Alachua	Municipal ordinances prevail in event of conflict. Environmental - Ordinances that establish different standards for the purpose of protecting the environment by prohibiting or regulating air or water pollution, the more stringent will apply inside a municipality. The less stringent standards still apply as well. (§1.4) Land use planning - Each municipality responsible for planning inside municipal boundaries; county for unincorporated area. County and a city may, by interlocal, agree to provide for joint planning under certain circumstances. (§1.5) County Growth Management Area - charter amended to establish a countywide "County Growth Management Area" and county's comp plan and land development regulations will govern land
Brevard	Municipal ordinances prevail except as otherwise provided by state or federal law. (§1.7)
Broward	Municipal ordinances prevail except when the county ordinance relates to (1) setting minimum standards protecting the environment through the prohibition or regulation of air/water pollution, or the destruction of resources in the county belonging to the general public; (2) land use planning ; (3) regulates the conduct of elected officials, appointed officials, and public employees through an enacted Code of Ethics ; (4) handgun management (§2.12)
Charlotte	Municipal ordinances prevail except for countywide ordinances relating to (1) impact fees to pay the cost of county facilities or (2) countywide comp plan or countywide comp plan elements and countywide LDRs as defined by Ch. 163 , Part II, Fla. Stat., as amended by the Legislature.
Clay	Municipal ordinances prevail.
Columbia	Municipal ordinances prevail except the county may, by ordinance, adopt minimum countywide standards for (1) regulating adult entertainment ; (2) protecting the environment by regulating air or water pollution; (3) outdoor burning ; (4) hours of sales of alcoholic beverages ; (5) animal control ; (6) firearms and weapons and; (7) protection of level of service standards for county maintained roads . Municipal ordinances in these areas can be stricter than the county minimum and apply. (§1.8)
Duval	Consolidated government.
Hillsborough	Municipal ordinances prevail. (§4.09) Planning - Charter establishes a single planning agency for cities and county to be created by special act without a referendum; responsible for comp planning and related activities as are committed to it by general or special law. (§9.09) Environmental protection - Charter establishes a single local environmental protection commission to be created by special act without a referendum.(§9.10)
Lee	Municipal ordinances prevail (§1.4); minimum environmental regulations (§1.6)
Leon	Municipal ordinances prevail. (§1.6)
Miami-Dade	Charter has power to preempt all municipal powers. (§§6.01, 6.02)

INTERGOVERNMENTAL RELATIONS	
County	"
Orange	Municipal ordinances generally prevail. Exceptions: County ordinances prevail when the county sets minimum standards for (1) regulating adult entertainment ; (2) protecting the environment by prohibiting or regulating air/water pollution, and only to extent that minimum standards are stricter than municipal ones; and (3) prohibiting or regulating simulated gambling or gambling. (§704) Voluntary annexation -Charter preempts ability to annex certain "preservation districts" to the county. (§505)
Osceola	Municipal ordinances prevail to extent of conflict. In the absence of conflict, county ordinances shall be effective inside municipalities when such intent is expressed by county ordinance. (§1.4) Casino gambling reserved to the people. (§1.5)
Palm Beach	<ul style="list-style-type: none"> •Municipal ordinances prevail to extent of conflict, except that county ordinances shall prevail over (1) matters relating to protection of wells and well fields; (2) matters relating to schools, county-owned beaches, district parks and regional parks, solid waste disposal, county law enforcement, and impact fees for county roads and public buildings; in matters related to county fire-rescue impact fees and county library impact fees in those municipalities whose properties are taxed by the county for library and/or fire-rescue services, respectively; (3) for adoption and amendment of countywide land use element; (4) matters related to establishment of levels of service for collector and arterial roads which are not the responsibility of any municipality; (5) voluntary annexation and (6) ethics regulation .
	<p>the restriction of the issuance of development orders which would add traffic to such roads which have traffic exceeding the adopted level of service, provided that such ordinance is adopted and amended by a majority of the county commission; and (5) voluntary annexation. (§1.3) Protection of Health, Safety and Welfare of all residents of county. County may adopt appropriate ordinances to accomplish these purposes. (§3.3)</p> <ul style="list-style-type: none"> •Both county and municipal approval of charter amendments when they affect municipal power or function.(§6.3)
Pinellas	The county has all special and necessary power to furnish within the various municipalities the services and regulatory authority listed here: (1) development and operation of 911 emergency communication system; (2) development and operation of solid waste disposal facilities, exclusive of municipal collection systems; (3) development and operation of regional sewer treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal systems; (4) acquisition, development and control of county-owned parks, buildings, and other county owned parks; (5) public health or welfare services or facilities; (6) operation, development and control of St. Pete-Clearwater airport;(7) design, construction and maintenance of major drainage systems in both the incorporated and unincorporated area; (8) design, construction and maintenance of county roads; (9) implementation of consumer protection regulations and protections; (10) animal control; (11) civil preparedness; (12) fire protection for unincorporated areas; (13) motor vehicle inspections;

INTERGOVERNMENTAL RELATIONS	
County	"
	<p>(14) water distribution, exclusive of municipal systems and in accordance with interlocals; (15) charitable solicitations regulations; (16) provide municipal services in unincorporated areas; (17) all powers necessary to transfer functions and powers of other governmental agencies; (18) special one-rule tax to acquire beachfront and other property for recreational use; (19) countywide planning, as provided by special law; (20) voluntary annexation procedures, including lands available for annexation, to the extent provided by general law. (§2.04)</p> <p>Annexation - Nothing in the charter prevents a municipality from annexing an unincorporated area, except that all annexations shall be in accordance with the exclusive method and criteria for voluntary annexation, including delineation of areas eligible for annexations adopted by ordinance under the authority elsewhere in charter. (§2.07)</p> <p>County can furnish additional services to the municipalities when the municipality requests it and BoCC approves. (§2.05) Certain powers of county limited. (§2.06)</p>
Polk	Municipal ordinances prevail. (§1.8)
Sarasota	Generally, municipal ordinances prevail except with respect to comprehensive planning and future land use designations in areas outside the urban service area which are not designated in a municipality's comp plan. In those areas, absent agreement, county's, rather than city's, future land use map designation ordinances control. (§3.3)
Seminole	Generally, municipal ordinances prevail. (§1.4) Exceptions: Casino gambling reserved to the people (Art. V, §1.1) and county ordinances related to the Rural Boundary prevail over municipal ones in conflict with county ordinances related to it. (Art. V, §1.2)
Volusia	Municipal ordinances prevail, except as otherwise provided by the charter. (§1305) Growth Management Commission - countywide power. (§202.3) Environmental minimum standards, including, but not limited to, tree protection, stormwater management, wastewater management, river and waterway protection, hazardous waste disposal, wetlands protection, beach and dune protection, air pollution. Standards shall apply in all areas of the county; county ordinances prevail in this area, municipalities may adopt stricter standards. (§202.4) Unified Beach Code - County has jurisdiction over coastal beaches and approaches (specifically including municipal areas) and exclusive authority to regulate the beaches and public beach access and use; county ordinance prevails in this area. (§205)
Wakulla	Municipal ordinances prevail; if county ordinance in conflict in municipality ordinance not effective. (§1.8)

ETHICS, ELECTIONS AND OPEN GOVERNMENT					
County	Campaign Finance Regulation	County Ethics Commission	Local Code of Ethics	Local Elections Criteria/Procedures	Redistricting Board
Alachua	Y (§1.6)	N	Silent		
Brevard	N	N	N		
Broward	N	Y (§10.01)	Y		
Charlotte	N	N	N		
Clay	N	N	Y (§2.2(E))		
Columbia	N	N	Y		
Duval	N	Y (§1.202)	Y (§1.202)		
Hillsborough	N	N	Y (§9.03)		
Lee	N	N	N		
Leon	N	N	Y		
Miami-Dade	N	Y-Independent Inspector General	Y		
Orange	N	N	Y (§707)		
Osceola	N	N	N		
Palm Beach		Y	Y (§2-441 through 2-447)		
Pinellas	N	N	N		Y
Polk	N	N	N		
Sarasota	Y (§6.5A)	N	N		
Seminole	N	N	N		
Volusia	N	N	Y (§1201)		
Wakulla	N	N			

RECALL ELECTION HELD

County	
Alachua	N
Brevard	N
Broward	N
Charlotte	N
Clay	N
Columbia	N
Duval	N
Hillsborough	
Lee	N
Leon	N
Miami-Dade	Y (1970s/ 2006)
Orange	N
Osceola	N
Palm Beach	N
Pinellas	N
Polk	N
Sarasota	N
Seminole	N
Volusia	
Wakulla	N

Sec. 7.4.1. Independent review of proposed charter amendments.

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three (3) persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The person serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Charter Review Commission within ten (10) calendar days of receipt and shall include a comprehensive written report regarding the conclusion(s) made. If the three (3) person panel rejects the proposed amendment or ballot language, it shall be sent back to the Charter Review Commission, during regular session, for a reasonable opportunity to cure any defect. The panels written report shall include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) should be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to remedy.

*First Draft- submitted 4/29/22:

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*Revised/Final Draft- submitted 5/2/22:

Sec. 7.4.1. Independent review of proposed charter amendments.

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. All members of the ~~The person serving on the~~ panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a general election or special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. In this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the ~~special~~ election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days of receipt by the review panel of the proposal and shall include a comprehensive written report containing the panels conclusion(s). If two (2) members of the three (3) person panel reject the proposed amendment or ballot language, the proposal shall be promptly returned to the Charter Review Commission for a reasonable opportunity to cure any defect. The panel's written report must include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, this opinion should be indicated and the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to cure it, allowing for one (1) opportunity to do so. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering the charter amendment proposal rejected by the three (3) person review panel.

*Copy Showing Highlighted Revisions:

Sec. 7.4.1. Independent review of proposed charter amendments.

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. All members of the ~~The person serving on the~~ panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two (2) members of the panel find that the proposed amendment embraces only one (1) subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for the consideration at a referendum at a general election or special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7. 3. 3. In this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.
3. The three (3) person panel shall submit its findings for each proposed amendment to the Board of County Commissioners and the Charter Review Commission within thirty (30) days ~~ten (10 days)~~ of receipt by the review panel of the proposal and shall include a comprehensive written report containing the panels conclusion(s). If two (2) members of the three (3) person panel ~~reject rejects~~ rejects ~~the proposed amendment or ballot language, the proposal shall be promptly returned sent back to the Charter Review Commission, during regular session, for a reasonable opportunity to cure any defect. The panel's panels~~ written report must shall ~~include, with specificity, the rationale for rejecting the proposed language and a suggested manner in which the defect(s) may be resolved. If all three (3) members of the panel conclude that the proposed language is incurable, this opinion should be indicated and the Charter Review Commission shall hold a vote on whether to abandon the proposal altogether or attempt to cure it, allowing for one (1) opportunity to do so. Notwithstanding section 7.4 of this Charter, the term of the Charter Review Commission shall be extended for the sole purpose of further considering the charter amendment proposal rejected by the three (3) person review panel.~~



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 21 Public Hearing 1

SUBJECT:

Amend the Home Rule Charter of Brevard County to make the Superintendent of Brevard County Schools an elected position

PETITIONER CONTACT:

Matt Nye

REQUESTED ACTION:

Amend Article 8 by adding Section 8.2 which would read:

"The Superintendent of Brevard County Schools shall be elected at-large in a countywide election."

SUMMARY EXPLANATION & BACKGROUND:

The current model that depends upon school board members to select and direct an appointed superintendent creates an environment where both school board members and the administration can deflect responsibility for, and ownership of, various issues. Having an elected Superintendent provides direct accountability to the voters, and a potential check on the School Board.

Staff Contact:

Melissa Brandt

Telephone Number:

(321) 301-4438

Email Address:

Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 22 Public Hearing 1

SUBJECT:

Amend the Home Rule Charter of Brevard County Citizens Advisory Process to allow for input by citizens twice per year (semiannually), instead of once per year (annually).

PETITIONER CONTACT:

Matt Nye, (321) 626-9791, matt.nye@nyecorp.com

REQUESTED ACTION:

Amend the Home Rule Charter of Brevard County Citizens Advisory Process to allow for input by citizens twice per year, instead of once per year.

SUMMARY EXPLANATION & BACKGROUND:

See attached Word doc for formatted language.

Staff Contact: Melissa Brandt
Telephone Number: (321) 301-4438
Email Address: Melissa.Brandt@brevardfl.gov

Amend Section 2.9.10 Citizens process for advising the County Commission to read:

The Board of County Commissioners shall develop procedures that will provide a mechanism for an individual, or an organized group of individuals to submit a formal written recommendation for the enhancement of the effectiveness and efficiency of County government to the County Commission on ~~an annual~~ a semiannual basis. The County Commission's procedures shall include the following provisions:

- a. ~~An annual~~ Two semiannual filing dates;
- b. The written recommendations shall be reviewed by the County Commission, and following the review, the County Commission shall vote to either accept the recommendation, accept the recommendation with revisions, or reject the recommendation; and,
- c. The County Commission's final vote and consideration of the recommendation shall occur no later than 120 days after receipt of the written recommendation. (Newly adopted 11-2-10)



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 23 Public Hearing 1

SUBJECT:

Amend the Home Rule Charter of Brevard County to add two school board members to be elected at-large/county wide.

PETITIONER CONTACT:

Matt Nye, (321) 626-9791, matt.nye@nyecorp.com

REQUESTED ACTION:

Amend Article 8, Section 8.1 to add two additional school board members elected at-large county wide, for a total of seven school board members.

SUMMARY EXPLANATION & BACKGROUND:

This amendment would add two additional school board members elected at-large/county wide, increasing the size of the board to seven (7) members.

Staff Contact: Melissa Brandt
Telephone Number: (321) 301-4438
Email Address: Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: May 12, 2022

AGENDA ITEM NUMBER: Proposal 24 Public Hearing 1

SUBJECT:

ESTABLISHMENT OF A BREVARD COUNTY WORKFORCE HOUSING AND SUPPORTIVE HOUSING FOR VULNERABLE FAMILIES TRUST FUND

PETITIONER CONTACT:

Jordin Chandler
chandlerjordin@yahoo.com

REQUESTED ACTION:

Jordin Chandler, a member of the 2021-2022 Charter Review Commission, proposes that a new section (Section 1.9), be added to Article 1: "Creation, Powers, and Ordinances of Home Rule Charter Government," of the Brevard County Charter.

SUMMARY EXPLANATION & BACKGROUND:

According to Florida Realtors' year-end report, at the end of 2021, the statewide median sales price for single-family existing homes was \$348,000. That's 20% more than the previous year. At the same time, rent has increased more than 20% since last year. While the cost of living has increased and will continue to increase, wages remain stagnant. This alarming inflationary trend has only proven that we can no longer turn a blind eye to one of our nation's most critical needs — affordable housing.

Affordable housing is sometimes referred to as "workforce housing." This is because affordable housing serves the needs of people employed in the jobs we rely upon to make every community viable. They are people such as teachers, teacher's aides, nursing assistants, medical technologists, retail workers, government employees, emergency services providers, and law enforcement. These are some of the low- and very low-income members of our community who play an essential role in our county's safety and security, development, and financial wellness.

Staff Contact: Melissa Brandt
Telephone Number: (321) 301-4438
Email Address: Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:

In addition, after decades of implementation and research, supportive housing has expanded to serve other populations sometimes identified outside of the homelessness system. In recent years supportive housing has been designed to serve high-need families with children. Specifically, families face multiple, complex challenges, including homelessness, child welfare involvement, domestic violence, substance use, mental health issues, and histories of complex trauma. In order to serve families with children effectively, the housing and services should be designed to reflect the needs of at least two generations in need of support.

Supply and Demand for Affordable Housing:

Rental market studies by the Shimberg Center for Housing Studies at the University of Florida include data that shows supply versus demand for affordable housing by County. This data shows the gap between the number of rental households and the number of available, affordable rental units.

Shimberg's 2016 study showed that the gap between supply and demand for renters earning <\$40% AMI was 4,261 units, but in their 2019 study, that gap had risen to 11,380 units!

Housing Vouchers:

In Brevard, housing vouchers have traditionally been the principal way of subsidizing rental units so that the landlord receives the Fair Market Rent while the tenant pays a maximum of 30% of their income. However, the last few years of rising house prices and rental rates have led to a significant devaluation of the housing voucher. Regular 2022 studies of Brevard rental rates by the Brevard Homeless Coalition (BHC) have shown that the average gap between the Fair Market Rent and the rent actually being asked by the landlord is 30%. Reality says that even the most community-minded landlords will be reluctant to take a 30% drop in income to offer housing to a low-income applicant.

This proposal would establish a Workforce Housing and Housing for Vulnerable Families Trust Fund, which will be used to create and sustain affordable housing in Brevard County.

PROPOSAL TO AMEND THE BREVARD COUNTY CHARTER TO ESTABLISH A TRUST FUND THAT WILL CREATE AND SUSTAIN WORKFORCE HOUSING AND SUPPORTIVE HOUSING FOR VULNERABLE FAMILIES.

Jordin Chandler, a member of the 2021-2022 Brevard County Charter Review Commission, proposes that the following underlined words be added to a new section (section 1.9) under **Article 1** of the Brevard County Charter:

Sec. 1.9. – Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund.

- (A) *Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund established.* The Brevard County Workforce Housing and Supportive Housing for Vulnerable Families Trust Fund ("Trust Fund") is hereby established.
- (1) See Sec. 62-6301. - **Definitions.** Of the Brevard County Code of Ordinances pertaining to the definitions for Workforce and Affordable Housing.
- (2) *Supportive housing is a combination of affordable housing and supportive services designed to help stabilize people who face complex challenges. Supportive housing has historically been offered to chronically homeless individuals through the homeless system and is recognized as a cost-effective and empirically based solution for long-term homelessness. Supportive housing models can look as different as the communities in which they are located. However, all supportive housing includes affordable housing, individualized, tenant-centered services, and property and housing management.*
- (B) *Purposes of Trust Fund.* The purpose of the Trust Fund is to provide a continuing, non-lapsing fund for the Brevard County Commission to use to address the need for affordable housing within Brevard County. The Trust Fund will be used to create and sustain affordable housing throughout Brevard County for renters and homeowners, and to increase workforce housing opportunities. The section is intended to comply with F.S. ch. 163 generally and specifically F.S. § 163.3177(6)(f), F.S. ch. 420 generally and specifically F.S. § 420.907, and F.S. ch. 125 and specifically F.S. § 125.379.
- (C) *Revenue sources.* The Trust Fund established under this section shall be funded as directed by the County Commission, and may be comprised of the following sources:
- (1) Brevard County General Revenue appropriated to the Trust Fund by the County Commission as part of the annual budget;

- (2) Funds voluntarily contributed by municipalities that may elect to participate in the Trust Fund and programs funded by the Trust Fund;
- (3) Grants or donations of money, property, or any other thing of value made to the Trust Fund;
- (4) Mandatory or voluntary payments, including but not limited to fees from new commercial and residential development, made pursuant to the development policies established by ordinance; and,
- (5) Other sources as established by ordinance.

(D) *Continuing Nature of Trust Fund.* Unless otherwise provided by ordinance or required by applicable law, unspent portions of the Trust Fund established under this Section, repayments of principal and interest on loans provided from the Trust Fund, and interest earned from the deposit or investment of monies from the Trust Fund:

- (1) Shall remain in the Trust Fund, to be used exclusively for the purposes of the Trust Fund;
- (2) Do not revert to the general revenues of the County, and
- (3) Any appropriations do not lapse.

(E) *Administration and Oversight of Trust Fund.* The Trust Fund shall be administered, appropriated, and expended by the County Commission in a manner consistent with the purposes of the Trust Fund as set forth in this section. The Trust Fund shall be administered in a manner that allows the Trust Fund to leverage other sources of public funds and private investment. The Trust Fund shall be included in the annual audit.

- (1) *Dispersion of funds.* The board of county commissioners shall establish and adopt written policies and procedures within the housing and human services department for the dispersion of such trust funds and residential density equivalent units. The criteria shall include a priority-based ranking system, similar to the state housing finance corporation format, to determine priority for the awarding of funds or density equivalent units to applicants.

Example: Proposals having more than the minimum percentage of units serving lower-income residents shall receive a higher priority ranking.

- (2) *Application.* Any applicant seeking to secure such funds or residential density equivalent units shall submit an application to the housing and human services department.
- (3) *Trust fund and unit dispersion.* Dispersion of funds and, or, density equivalent units shall be limited by fund availability and shall be in accordance with the written policies and procedures established by the

board of county commissioners for the use of such funds. Dispersion of residential unit density, by the transfer of development rights, shall be consistent with the transfer of development rights for affordable units section of the code and the county comprehensive plan.

Developments seeking the use of housing trust funds or density equivalent units should be located in areas serviced by existing transportation and utilities infrastructure and located near other public facilities, services, employment centers, shopping, active mass transit corridors, daycare centers, schools, and health services. A location evaluation matrix and needs analysis form, authorized by the BOCC as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Developments scoring at or above the minimum 66th percentile will be eligible to receive housing trust funds and density equivalents. A complete application will include a completed location evaluation matrix and needs analysis form that meets the minimum scoring requirement at or above the 66th percentile. A higher-ranking score may be used to determine the awarding of additional funds when available.

(4) *Trust fund affordability agreement.* The applicant shall enter into a land use and deed restriction affordability agreement with the county. The agreement shall provide the number and designation level of affordable units, and period of time as affordable, and any other requirements in order to receive housing trust fund monies or units consistent with the written policies and procedures established by the board of county commissioners. A land trust may be used as a mechanism to retain units as affordable and/or special needs units.

(5) *Trust fund discretionary allocation.* Allocation of these funds and units are discretionary and must compete with all other developments and are based on fund and unit availability. Priority shall be given to developments designed to facilitate pedestrian access to transit and neighborhood commercial nodes that score above the 66th percentile on the completed location evaluation matrix and needs analysis forms.

(F) *Implementation by Ordinance.* No later than July 1, 2023, the County Commission shall adopt one or more ordinances implementing the provisions of this section, and/or strictly enforce existing ordinances (such as those located at Chapter 62, Article XVII), which ordinances may be amended from time to time by the County Commission consistent with the provisions of this section.

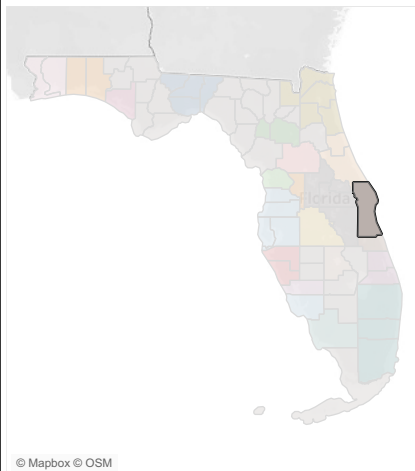
Wages and Housing Costs by MSA

The following dashboard shows the median hourly wage necessary to afford housing in Florida overall as well as in each metropolitan statistical area (MSA).

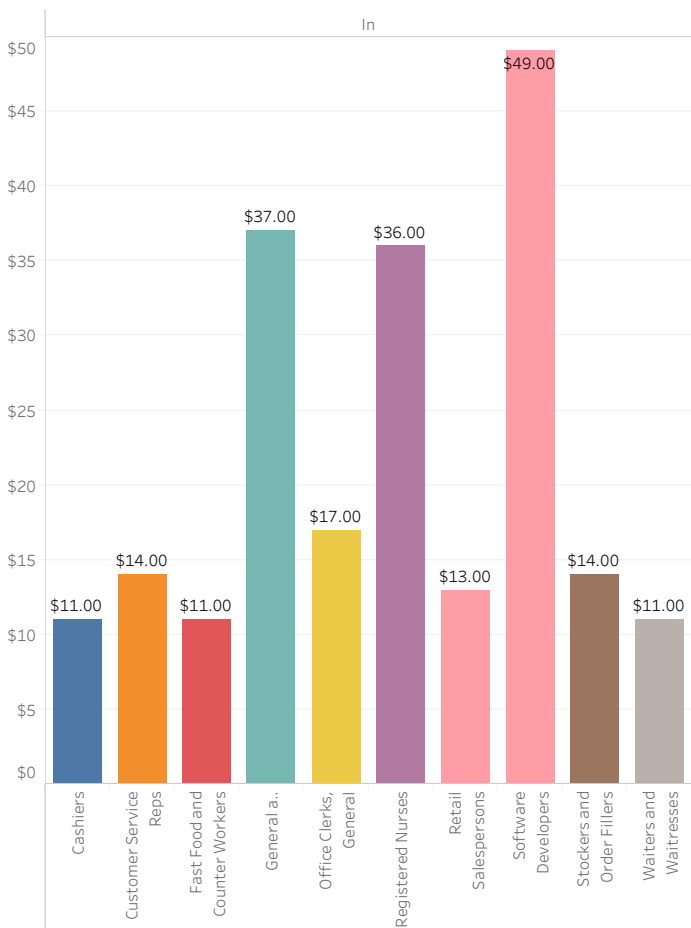
Click an MSA on the map below to see how the 10 most common jobs in the area stack up compared to the median rent (from the 2020 5-Year ACS) or median mortgage (Home Values from the Florida Realtors 2021 Year-End Report, assuming a 4.83% interest rate and 10% down).

Palm Bay-Melbourne-Titusville, FL

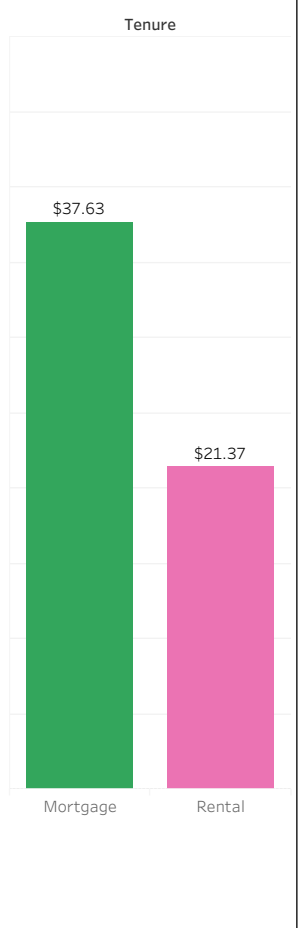
MSAs in Florida with BLS Data



Median Income of Top 10 Most Common Occupations in Florida



Wage Needed to Afford Median Home



2021-2022 Charter Review Commission

Meeting Schedule

04-22-2022

Date	Day	Time	Location	Proposals Due (10 days prior to meeting date)	Agenda Distributed
06-Jan-22	Thursday	5:00PM	Florida Room	27-Dec-21	
20-Jan-22	CANCELLED	CANCELLED	CANCELLED	10-Jan-22	
3-Feb-22	CANCELLED	CANCELLED	CANCELLED	24-Jan-22	
17-Feb-22	Thursday	3:00PM	Commission Chambers	7-Feb-22	
10-Mar-22	CANCELLED	CANCELLED	CANCELLED	28-Feb-22	
24-Mar-22	Thursday	1:00PM	Commission Chambers	14-Mar-22	
7-Apr-22	CANCELLED	CANCELLED	CANCELLED	28-Mar-22	
21-Apr-22	Thursday	3:00PM	Commission Chambers	11-Apr-22	
12-May-22	Thursday	5:00PM	Commission Chambers	2-May-22 2-May-22 Final date for proposal submissions	
23-June-22	Thursday	3:00 PM	Commission Chambers		
07-Jul-22	Thursday	3:00 PM	Commission Chambers		
21-Jul-22	Thursday	3:00PM	Commission Chambers		
4-Aug-22	Thursday	3:00PM	Florida Room		

**Rules of Procedure
Brevard County Charter Review Commission**

(As Amended April 21, 2022)

- Rule 1. Public Meeting
- Rule 2. Citizens Participation at Meetings
- Rule 3. Place of Meetings
- Rule 4. Call and Notice of Meetings
- Rule 5. Agenda for Regular Meetings
- Rule 6. Recording of Minutes
- Rule 7. Quorum
- Rule 8. Proxy Voting
- Rule 9. Voting Generally
- Rule 10. Official Rule of Order
- Rule 11. Duties of the Chairman
- Rule 12. Duties of the Vice-Chairman
- Rule 13. Duties of the CRC staff person
- Rule 14. Committees
- Rule 15. Policy on Publicity
- Rule 16. Rule Amendments
- Rule 17. Charter Amendments
- Rule 18. Absences
- Rule 19. Procedure for Presenting Charter Amendment Proposals

Rule 1. Public Meetings: All meetings of the Commission, including all meetings of its Committees, shall be open to the public.

Rule 2. Citizen Participation at Meetings: The Commission will allow public comment on all substantive agenda items. Under the agenda item of "Public Comment" any and all interested citizens shall be afforded an opportunity to comment on matters before the Commission or any Committees. The remarks of any citizen should be germane to the agenda or matters to come before the Commission. Each agenda shall include and prescribe a certain portion of the meeting at which "Public Comment" may be made. The Commission may impose reasonable limitations on time allotted to speakers. Each citizen addressing the Commission is asked to avoid being redundant. Citizen's comments will be limited to three (3) minutes in the interest of fairness to all citizens desiring to be heard. This requirement may be waived at the discretion of the Charter Review Commission by majority vote of members.

Rule 3. Place of Meetings: The location of meeting places for the Commission should be based on the following guidelines: Meeting places may be considered in any geographical areas of the county. The meetings of the Commission or Committees should be at a meeting place accessible to the public and large enough to accommodate not only the Commission or Committee, as the case may be, but also interested citizens.

Rule 4. Call and Notice of Meetings: Date, time and place of each regular meeting of the Commission shall be announced at the preceding regular or special meeting of the

Commission, and posted on public bulletin boards in accordance with Brevard County policy. The agenda of each regular or special meeting shall include the scheduling of the date of the next regular meeting. Special meetings may be called by the Chairman of the Commission, or by any ten (10) members of the Commission with at least one member from each district attending and require the ten (10) members of the Commission requesting a special meeting to do so in writing and filed with the CRC staff person. The CRC staff person shall be responsible for e-mailing and mailing a written notice of the date, time and place of meetings to members of the Commission. All such notices shall be mailed and emailed to the members of the Commission at their addresses noted on the *Commissioner Appointee Information Form* and kept by the CRC staff person. It shall be the responsibility of any member of the Commission to notify the CRC staff person of any change of address. The Chairman of each Committee shall be responsible through the CRC staff person, for giving sufficient written, e-mail, and telephone notice of Committee meetings. A written notice of special meetings of the entire Commission shall be given in the same manner as written notices of regular meetings, except that the written notice of a special meeting shall include the purpose for the call of such special meeting.

Rule 5. Agenda for Regular Meetings: The agenda for regular meetings of the Commission shall be generally as follows, subject to amendment or revision by the Commission Chairman:

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
- V. Reports:
 - A. Chairman
 - B. CRC Staff Person
 - C. Other Members
- VI. Public Comment
- VII. Introduction of Guests and Their Presentations (if applicable)
- VIII. Reports of Committees
- IX. Unfinished Business
- X. New Business
- XI. Adjournment

Rule 6. Recording of Minutes: Meetings of the Commission shall be recorded on recording machines. The tapes of all such meetings shall be preserved as required by law. Failure to tape record a meeting shall not affect the validity of any proceeding. The CRC staff person shall be responsible for ensuring that a recording apparatus is available at each meeting of the Commission. The CRC staff shall further be responsible for the safeguarding of the tapes of such meetings. In addition to the tape recording of the meetings, the CRC staff shall take minutes of the proceedings of the Commission and the Chairman of each Committee or a person designated by such Chairman shall take minutes at all proceedings of the Committee meetings. All records of the Commission, including the tape recordings of meetings, shall be made available to the public during normal business hours. Minutes of all the Committee proceedings shall be filed with the CRC staff person at least once per month.

Rule 7. Quorum: A majority of the members of the Commission or Committee shall constitute a quorum.

Rule 8. Proxy Voting: No member of the Commission or any of its Committees shall have the power to vote by proxy. Only those members physically present shall be entitled to vote.

Rule 9. Voting Generally: Each member present shall vote, unless a conflict of interest exists, in which case said conflict shall be publicly stated prior to the vote and filed in writing with the CRC staff person, as provided by law.

Rule 10. Official Rules of Order: Except as otherwise provided in these Rules and Policies, Robert's Rules of Order Revised (11th Edition) shall apply in matters of procedural conflict for the Commission and Committees.

Rule 11. Duties of the Chairman: The Chairman shall:

- a. Preside at all meetings of the Commission
- b. Serve as speaker for functions and activities.
- c. Be charged with the responsibility of making appointments of all persons on committees.
- d. Call special meetings when necessary

Rule 12. Duties of the Vice-Chairman: The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence or inability to serve.

Rule 13. Duties of the CRC staff:

- a. Keep accurate minutes of all Commission proceedings.
- b. Be custodian of all records of the Commission.
- c. Keep an address and attendance roster.
- d. Prepare, dispatch, file, and otherwise process all correspondence approved by a Member of the Commission for the Commission as a whole.
- e. Make all minutes available to the public and open for inspection at all reasonable times. The attendance roster shall likewise be open for inspection by any member and by the public at any reasonable time.
- f. Provide for the reproduction or copying of such records as may be requested by the public on a reasonable period of time and at a rate consistent with Brevard County policy.
- g. Maintain accurate records showing the nature, purpose, and amount of all expenditures made on behalf of the Commission.
- h. Coordinate with the Office of the County Manager in connection with the proof and filing of all disbursement requests and other administrative requirements.
- i. Perform other duties as prescribed by the Chairman.

Rule 14. Committees: The Commission may establish Committees as it sees fit to plan and administer ministerial functions of the Commission, or to investigate and report to the full Commission on the studies of special departments or functions of the existing or proposed government, or for any other lawful purpose; provided that no Committee shall have any final authority vested by law in the full Commission.

Rule 15. Policy on Publicity: Every effort shall be made to ensure that the proceedings of the Commission are made available to the media with the goal of seeking maximum public participation in the review process. No attempt shall be made to inhibit the normal processes of the media. The Chairman of the Commission or designee shall be responsible for announcing the position of the Commission to the public and news media. Members of the Commission may make public or private statements of their personal feelings, attitudes, or beliefs at any time. In making such statements, however, members of the Commission shall on every occasion make an affirmative statement that they are speaking as an individual and not on behalf of the Commission as a whole.

Rule 16. Rule Amendments: These rules and policies shall be the by-laws of the Commission and may be amended by an affirmative vote of eight (8) of the members of the Commission ~~with at least one member appointed by each Commissioner present.~~

Rule 17. Charter Amendments: For a charter amendment recommendation to be transmitted to the Board of County Commissioners for placement on the ballot for voter approval or denial, ten (10) members of the CRC must vote to approve it.

Rule 18. Absences: Absences may be excused by the Chair for good cause. The CRC may review and ratify or overrule the Chair's determination of good cause. If any member of the CRC is absent for three consecutive meetings without good cause. The CRC shall notify the County Commissioner who appointed the absent member and request the appointment of a replacement member.

Rule 19. Procedure for Presenting Charter Amendment Proposals: The procedure for presenting Charter Amendment Proposals shall be as follows:

- a. The member of the Commission, or a resident of Brevard County making the proposal shall introduce the proposal to the Commission.
- b. The members of the Commission shall discuss the proposal presented.
- c. The Commission shall hear any public comment regarding the proposal from any member of the public who has registered to speak with respect to the specific proposal.
- d. The Commission shall have further discussion regarding the proposal, if necessary.
- e. A member of the Commission may then make a motion concerning the proposal.