

BREVARD COUNTY CHARTER REVIEW COMMISSION

AGENDA

June 23, 2022

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

Commission Room, 3:00 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
 - a. Requested Information on School Board Compositions
 - 3. CRC Attorney/Other Members
 - a. 10-Vote Rule Memo
 - b. Proposal 23- Adding School Board Members
 - c. Proposal 21- Making School Superintendent Elected Official
 - d. Proposal 6-Right to Clean Water
 - e. Proposal 6- Clean Water Memo 2
- F. Proposals
 - 1. **Charter Cap- Public Hearing #3**
Public Comment
 - 2. **Recall School Board Member**
(Voted on 0512/2022) 6-5 to remove proposal from consideration

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 # 3

Public Comment

6. Right to Clean Water – Public Hearing # 3

Public Comment

7. Repeal of Article 8 & Section 8.1 School Board-Public Hearing # 3

(Voted on 05-12-2022) Vote 4-7 to remove from consideration-vote failed

Public Comment

8. Amend Section 2.7 – Vacancies and Suspensions (Amended 05-19-2022 with strike throughs and underlines)-Public Hearing # 2

Public Comment

9. Amend Section 2.4-Term of Office

(Voted on 05-12-2021) Vote 6-5 to remove from consideration

10. Amend Section 7.3.3-Supermajority Public Hearing # 2

Public Comment

11. Article 1-Creation, Powers, and Ordinances

(Voted on 05-12-2022) Vote 11-0 to remove from consideration

12. Article 2-Legislative Branch

(Voted on 05-12-2022) Vote 11-0 to remove from consideration

13. Article 3- Executive Branch

(Voted on 05-12-2022) Vote 11-0 to remove from consideration

14. Section 5.2- Recall

(Voted on 05-12-2022) Vote 10-1 to remove from consideration

15. Section 7.4 Charter Review

(Voted on 05-12-2022) Vote 7-4 to remove from consideration

16. Non-Partisan Election

(Voted on 05-12-2022) Vote 8-3 to remove from consideration

17. Amend Section 2.4 Term Limits-Public Hearing # 2

Public Comment

18. Amend Section 5.2 Recall- Public Hearing # 2

Public Comment

**19. (Amended Proposal 05-19-2022)Amend Section 5.2 Recall-
Scrivener's Error and to add school board members to the list
of county officers subject to recall -Public Hearing # 2**

Public Comment

**20. Amend Article 7.4.1-Add subsection 3 – 3-Panel Attorney
Process -Public Hearing # 2**

Public Comment

**21. Amend Article 8 by adding Section 8.2- County Wide Election
Public School Superintendent - Public Hearing # 2**

Public Comment

22. Revise Citizen Advisory Process-Public Hearing #2

Public Comment

23. **Amend Article 8 Section 8.1-Addition of Two School Board Members -County Wide Election-Public Hearing # 2**

Public Comment

24. **Addition of Section 1.9 to Article 1- Establish Workforce Housing Trust Fund for Vulnerable Families-Public Hearing # 2**

Public Comment

G. Unfinished Business

H. New Business

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.

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 03- Full Time Commissioner)

Motion by: Vic Luebker to Strike Proposal 3 from Consideration

Second by: Robin Fisher

All those in favor of striking Proposal 3- Yes/All opposed to striking proposal 3 say No

Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	y
Haridopolos	District 2	y	Oliver	District 4	y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	y	Schmitt	District 4	y
Luebker	District 5	y	Trettis	District 2	y
Moore	District 1	Y	White	District 3	y
Neuman	District 5	Y			

Motion to Strike Proposal 3 Passed 15-0 on 04/21/2022

Motion to Strike Proposal Failed

Unanimous Vote to Strike Proposal 3

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 04- Revise Citizen Process)

Motion by: Vic Luebker to Strike Proposal 4 from Consideration

Second by: Robin Fisher

All those in favor of striking Proposal 4- Yes/All opposed to striking proposal 4 say No

Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	N
Haridopolos	District 2	y	Oliver	District 4	y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	y	Schmitt	District 4	y
Luebker	District 5	y	Trettis	District 2	y
Moore	District 1	Y	White	District 3	y
Neuman	District 5	Y			

Motion to Strike Proposal 4 Passed 14-1 on 04/21/2022

Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

2021-2022 Brevard County Charter Review
Record of Vote

(CRC:2021-2022 – 02- Recall Election of School Board Members)

Motion by: Kendall Moore to Strike Proposal 2 from Consideration

Second by: Robin Fisher

All those in favor of striking Proposal 2- Yes/All opposed to striking proposal 2 say No

Chandler	District 5	Y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	N
Haridopolos	District 2	N	Oliver	District 4	Y
Jacobs-Kierstein	District 3	N	Rogerson	District 2	N
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	N
Moore	District 1	Y	White	District 3	Absent
Neuman	District 5	Absent			

Original Motion Made by Sue Schmitt to Amend Proposal 2 by Striking Mr. Trettis language and inserting Florida Law. Mr. Trettis did not want proposal Amended, Sue Schmitt withdrew Motion.

Motion to Strike Proposal 2 Passed 6-5 on 05/12/2022

Motion Failed on

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

2021-2022 Brevard County Charter Review
Record of Vote

(CRC:2021-2022 – 07- Repeal Article 8 and Section 8.1)

Motion by: Kendall Moore to Strike Proposal 7 from Consideration

Second by: Sue Schmitt

All those in favor of striking Proposal 7- Yes/All opposed to striking proposal 7 say No

Chandler	District 5	N	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	N
Haridopolos	District 2	N	Oliver	District 4	N
Jacobs-Kierstein	District 3	N	Rogerson	District 2	N
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	N
Moore	District 1	Y	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal Passed on

Motion to Strike Proposal 7 Failed on 05/12/2022 4-7

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

2021-2022 Brevard County Charter Review
Record of Vote

(CRC:2021-2022 – 09- Term Limits)

Motion by: Matt Nye to Strike Proposal 9 from Consideration

Second by: Blaise Trettis

All those in favor of striking Proposal 9- Yes/All opposed to striking proposal 9 say No

Chandler	District 5	y	Newell	District 1	N
Fisher	District 1	N	Nye	District 3	y
Haridopolos	District 2	y	Oliver	District 4	N
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	Absent	Schmitt	District 4	N
Luebker	District 5	Absent	Trettis	District 2	y
Moore	District 1	N	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 9- Term Limits Passed 6-5 on 05/12/2022

Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

2021-2022 Brevard County Charter Review

Record of Vote

(CRC:2021-2022 – 11- Article 1, Creation, Powers and Ordinance

Motion by: Sue Schmitt to Strike Proposal 11 from Consideration

Second by: Marie Rogerson

All those in favor of striking Proposal 11- Yes/All opposed to striking proposal 11 say No

Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	y
Haridopolos	District 2	y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	y
Moore	District 1	Y	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 11- Article 1-{Change Name of Brevard County} Passed 11-0 on 05/12/2022

Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 12- Amend Article II Legislative Branch)

Motion by: Sue Schmitt to Strike Proposal 12 from Consideration

Second by: Matt Nye

All those in favor of striking Proposal 12- Yes/All opposed to striking proposal 12 say No

Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	y
Haridopolos	District 2	y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	y
Moore	District 1	Y	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 12- Amend Article II-{Legislative Branch} Passed 11-0 on

05/12/2022 Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 13- Article III Executive Branch)

Motion by: Sue Schmitt to Strike Proposal 13 from Consideration

Second by: Matt Nye

All those in favor of striking Proposal 13- Yes/All opposed to striking proposal 13 say No

Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	y
Haridopolos	District 2	y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	y
Moore	District 1	Y	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 13- (Amend Article II-{Executive Branch}) Passed 11-0 on

05/12/2022 Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 14- Section 5.2 Recall)

Motion by: Sue Schmitt to Strike Proposal 14 from Consideration

Second by: Blaise Trettis

All those in favor of striking Proposal 14- Yes/All opposed to striking proposal 14 say No


Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	N
Haridopolos	District 2	y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	y	Rogerson	District 2	y
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	y
Moore	District 1	Y	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 14- (Section 5.2 Recall) Passed 10-1 on

05/12/2022 Motion to Strike Proposal Failed

Matt Nye Voting No

Brevard County Charter Review Commission

ATTEST: 

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 15- Section 7.4)

Motion by: Sue Schmitt to Strike Proposal 15 Section 7.4 Charter Review Commission from Consideration

Second by: Blaise Trettis

All those in favor of striking Proposal 15- Yes/All opposed to striking proposal 15 say No

Chandler	District 5	y	Newell	District 1	Y
Fisher	District 1	Y	Nye	District 3	N
Haridopolos	District 2	N	Oliver	District 4	Y
Jacobs-Kierstein	District 3	N	Rogerson	District 2	Y
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	Y
Moore	District 1	N	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 15-(Section 7.4 Charter Review Commission)Passed 7-4 on 05/12/2022

Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST:

Melissa Brandt, Secretary, Charter Review Commission 2021-2022

**2021-2022 Brevard County Charter Review
Record of Vote**

(CRC:2021-2022 – 16- Non -Partisan Election)

Motion by: Matt Nye to Strike Proposal 16 from Consideration

Second by: Blaise Trettis

All those in favor of striking Proposal 16- Yes/All opposed to striking proposal 16 say No

Chandler	District 5	N	Newell	District 1	Y
Fisher	District 1	N	Nye	District 3	Y
Haridopolos	District 2	Y	Oliver	District 4	Y
Jacobs-Kierstein	District 3	Y	Rogerson	District 2	Y
Jenkins	District 4	Absent	Schmitt	District 4	Y
Luebker	District 5	Absent	Trettis	District 2	Y
Moore	District 1	N	White	District 3	Absent
Neuman	District 5	Absent			

Motion to Strike Proposal 16- {Non-Partisan Election} Passed 8-3 on 05/12/2022

Motion to Strike Proposal Failed

Brevard County Charter Review Commission

ATTEST:



Melissa Brandt, Secretary, Charter Review Commission 2021-2022

CHARTER REVIEW COMMISSION MEETING

Thursday, May 12, 2022

5:00 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 Charter Review Commission.

B. Pledge of Allegiance

Mike Haridopolos: If we would all rise for the Pledge of Allegiance. Mr. Fisher will you please lead us. 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.

C. Roll Call:

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

Melissa Brandt:

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

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

Mike Haridopolos: All right we have a quorum.

D. Approval of Minutes from March 24, 2022 Meeting

Mike Haridopolos: We have the minutes before us. With that, is there any concerns about the minutes? Without any objection, Mr. Fisher moves that, and I second it. Show it is adopted. We will now move to reports.

E. Reports:

1. Chairman Haridopolos: Why don't we go to the staff first and see if there is any information from them. Anything that you would like to share with us?

2. CRC Staff Person

Jim Liesenfelt: No, we have no additional information for you at this meeting, but there will be some information at the next meeting for you.

Mike Haridopolos: Okay great. And Mr. Gougelman why don't you share a little bit of information, I know there is some issues with the Attorney General. Let's get into that please.

3. CRC Attorney

Paul Gougelman: Thank you Mr. Chairman. Electronically what we sent to you all earlier was a copy of the proposed letter to the Attorney General's Office seeking an opinion. It kind of gives the other side of the story with the question with regard to School Board recall. They will also be getting a copy as they requested of the memo that came here that gives the other side of the story, so to speak so they can see both angles on it. I want to report to you all that what I received, I decided to go ahead and call the Attorney General's Office and talk to the Division of Legal Opinions, one of their staff attorney's up there to basically let them know that this letter was coming. That unlike a City Council or Charter, or rather a County Commission we don't have an unlimited term here and we were hopeful that they would be able to get to the opinion in a timely way and so that we could get an answer back. The first thing that happened was that the individual I talked with, he started asking questions like well, do you think you are really legally able to ask this question? Are you able to ask any question at all? Don't you think the County Commission should send this request up there? I told this individual, I said no, I think we are legally entitled under the State Statute to do this, in fact the Attorney General's office some years ago in the case of the Broward County Charter Review Commission, gave them a formal opinion on an issue that they posed. "oh well, we will have to look at this further". The next thing I know is I got a call from the County Attorney, Abby Jorandby and she says, I just wanted to give you a heads up that I received a call from the AG's Office and they were asking what is this Charter Review Commission, and who is this Paul Gougelman, and what are they asking, and what is going on? Then they posed the question to Ms. Jorandby, Well I am not sure this is even a question under the Florida Constitution or Florida Statute. And

of course, the question was phrased by Mr. Trettis, and it clearly uses the term Article 8 right in the Constitution, so the point I wanted to tell you is, that I want to make here is that for whatever reason back in the 1970's, the AG's office, would issue 200 or 300 formal opinions per year, and what has happened in last twenty or so years, it just isn't this Attorney General, but the AGO is only issuing like 15 opinions a year or whatever. There seems to be kind of a movement, not to accept these opinions where they can, where they have some question about it. We have done our best, I think Mr. Trettis is satisfied with the form of the letter, it was his motion, and I just wanted to report back to you. In any event, that is going out to the AG's Office, Federal Express, today.

Mike Haridopolos: Thank you, are there questions? Blaise

Blaise Trettis: I would like to commend Mr. Gougelman on what I think is a very finely researched and written request.

Mike Haridopolos: Ms. Schmitt?

Sue Schmitt: I believe at the last County Commission meeting, the Commissioners had a question on a particular issue that they had asked the County Attorney to talk to the Attorney General, and she came back at the last Commission meeting explaining that the Attorney General has said they were not going to deal with any Charter issues and other items. So, it wasn't just Mr. Gougelman, it was also as far as the County Commission was concerned at this point.

Mike Haridopolos: Okay. I see your point. We will send that letter up and see where it goes. Maybe I might reach out to the Attorney General as well and just make sure it is all clear. Other items for the council? All right, as we get ready to go through proposals we have, I think everyone has seen their email box be quite busy. We now have twenty-four. The power of the deadline has been realized here. And one of the things we did in the last meetings here is that you saw that numbers three and four were both removed from consideration. So, what I would like to do today is, obviously this would be either public hearing number one or two depending on the item. I would proactively do much like we do in the legislature and the Congress, and saying if we don't have a majority of the people willing to consider. This is not to obligate you to vote yes or no, but if you don't want to give further consideration to something, I would like to remove that because we only have so much time. So, the proposal I would kind of like to move forward with is that a simple majority is, would vote to remove something from consideration. So, in our case today a majority would be I guess six? With eleven people? So, if six people say no to a proposal, proactively, that would be removed from consideration. We will do that after each one of these measures. Obviously, these folks who are sponsors of it have the opportunity to make public comments, or their advocates, and then after each one of these items we will vote to move forward or not. So, if six people vote to remove it from consideration, it will no longer be under consideration. Is everyone okay with that, or would you like to discuss it further? Okay I will take that as we are going to go with that plan of action, and so what we have right now in front of us is of course is Charter Cap, public hearing number two, and Mr. Trettis you have put that forward for us and if you want to introduce that once again? I think we have some, we do not have any appearance

cards on it today, but please introduce it and if people have questions, we can move forward from there.

F. Proposals:

Proposal 1- Charter Cap- Public Hearing 2

Blaise Trettis: Thank you Mr. Chair. I have explained it I think twice, so I will waive an explanation. If any Commissioner has any questions for me, I will be glad to try to answer them, but it has been explained twice.

Mike Haridopolos: Okay great. Are there any questions for the sponsor? There are no appearance cards before me, would anyone in the audience like to speak on it? With that, Mr. Trettis obviously wants it to move forward. Is there any objection to putting this to a third public hearing? So, there is no objection, so it will be moved forward to public hearing number three.

Proposal 2 – Recall of School Board Member Public Hearing 2

Mike Haridopolos: All right so proposal number two is recall of school board member, hearing number two. And, this is also sponsored by Mr. Trettis, Mr. Trettis you are welcome to introduce.

Blaise Trettis: Thank you. This is a recall proposal for the school board members. There is one County Charter in Florida which provides for recall of school boards, that is Duval County. This proposal applies to different types of elections whether it is partisan or non-partisan. We have non-partisan school board elections now. Whether it is District wide, i.e., county wide or by resident's area. So, it applies to any of those situations. It tracks the Florida Statute on recall of County Commissioners and City Council, with some exceptions. It does away with some of the reasons under the Statute and in its place puts three votes, up to three votes by the school board. With the petition having a recital of the motion, and how the school board member who is sought to be recalled voted on those motions. It is substantively different, it basically allows the electors to recall, or at least to attempt to recall school board members because of their policy decisions. I believe it is necessary for some recent policy decisions of the school board. One thing that I additionally wanted to point out because I think this has been explained a couple of times as well, but there is only one additional thing I would like to add. That is regarding the cost. I am quite sure that elections are very expensive, however this process takes, this recall process takes from 195-225 days. So, for example if this recall proposal were to pass, become part of the Charter, if it were in effect now, for example hypothetically. April 1st of this year it would have been 218 days approximately before the November 8th election. Which means if a group who wants to recall, or try to recall a school board member times it correctly, then it would not cost Brevard County any additional money because if the proposal becomes part of the November ballot. So, that hasn't been pointed out before. I think that would be a really important reasons for people who are interested in trying to recall a school board member to time it as such, because that would be a very important reason, perhaps for someone to sign a petition, or not to sign a

petition if it is going to cost hundreds of thousands of dollars if it is not time like this. So, that point hasn't been made, but I know that Commissioners of the past have expressed how much it would cost. I would submit that that would eliminate the cost addition. That is the only comments I have. Thank you.

Mike Haridopolos: Thank you, are there questions? Ms. Schmitt for a question, sure.

Sue Schmitt: In your proposal on page two of seven, for the grounds for recall, would you consider amending that to state what the Statute is concerning counties and municipalities? Especially since Mr. Gougelman has given this group, this board, information concerning recall, and fact even section 8 and 8.1.

Blaise Trettis: I wouldn't consider it, changing it, if you are referring to the three votes of the school board members, up to three votes on particular motions, I think that is really the most important part of it here. Talking about adding reasons to track the Statutes. I would not be willing to do that. Because those other reasons are very vague, such as misfeasance, negligence or neglect of duty, drunkenness

Sue Schmitt: Yes, and it continues, but it is set up by State Statute what those reasons are.

Blaise Trettis: Right.

Sue Schmitt: And that, in fact is in our Charter right now that if there is recall for say the County Commission, it sets out that it has to be by general law, and general law sets out what those reasons are. Versus this, you could a school board, any school board, whatever, whoever its is could make a decision to vote for changing the carpets in a school, and somebody could be recalled because it is a policy change. I prefer to go by Florida law, and that is why I was asking if you would amend that.

Blaise Trettis: No, I wouldn't because I have also looked at some of the appellate decisions for recall statutes for County Commissioners. It all gets tied up in litigation, sometimes. It is often successful litigation because misfeasance is very vague and general and the appellate court will strike it down and same things for drunkenness and all these other really archaic reasons. So, I really think this is the most important part of it really, is that it allows the electorate to recall a school board member because of the decisions it made, and as I have said before I don't think it can wait up to four years to make these changes when the health and welfare of children are impacted so much by school board member decisions.

Mike Haridopolos: Other questions? All right seeing no other questions, we do have a few comments before we finish up the conversation on it. We have Matthew Woodside from Merritt Island. We will allocate each speaker for three minutes, and if there are questions from the Commissioners, we will of course keep that conversation going. Welcome Mr. Woodside.

Matthew Woodside: Can I have time start over, I wasn't ready to speak. Sorry. Good evening my name is Matthew Woodside and I have been an educator with Brevard Public Schools for the last 15 years. I came today to shed light on some specific policies in our

district, and how those policies are manifesting in our public schools. What some don't know is that our School Board has enacted policies to allow students to access restrooms and locker rooms of the opposite sex, when they choose. As an educator on the inside, I am here to tell this committee and anyone else who will listen that students are taking advantage of policies across our district daily. At my school boys and girls have used the opposite sexes restroom on a daily basis all year long. I have witnessed it with my own eyes. My administration has confirmed they are aware and they say that they are just following policy. When I initially voiced my concern, and vowed to never let it happen on my watch, I was given this official notice on BPS letterhead stating that I would face disciplinary action if I prevented students from using restrooms and locker rooms of the opposite sex. I brought copies for everyone on the commission and for the official record. Many teachers across the district are allowing these policies to manifest on their campus, not yet willing to speak up publicly because of the threat against their employment. But many speak to me privately about issues taking place on the campus because of my public stance against these policies. Recently a teacher in our district reached out to me to tell me of an incident of deep concern which I spoke at our last board meeting on this past Tuesday. This male PE teacher on duty felt compelled by our policies to allow female student identifying as a male into his male locker room to change her clothes, with the other male students. She entered, took her shirt off, and as the male students and male PE teacher witnessed, this female student was wearing no undergarments under her shirt. This female student was naked from the waist up in front of her male classmates and male PE teacher. Our board has enacted policies that are forcing teachers to be in the presence of nude minors of the opposite sex and we have exposed our students to the same. Under the threat of losing our jobs. This is considered criminal in any other context, and yet it is happening in Brevard County. And regardless of what anyone else says, including Mrs. Belford and her colleagues, our board is under no legal obligation to let this happen. Restroom use is based on a court case currently being appealed in federal court that will most likely be overturned. And, regarding our locker rooms, our county repeatedly said they are just following federal law, but they are not. There is no federal laws requiring schools to allow transgender students to use locker rooms of their choosing. St. John's County sites this fact in their guidance on these issues. I brought copies of that as well. I would love to go into more details on these issues, including how this all started with Ms. Belford in 2016. Details in areas across the county, on my campus including one where the boys on a campus were just girls for a day so they could go into the girls restroom with girls inside, girls screaming. A terrible situation. One just happened at Titusville High School. But, the stories are coming out more and more. I just wanted to at least let everyone know that this is happening in your county and it is expressly because of a few decisions of a few board members, not any State of Federal law. Thank you.

Sue Schmitt: What school are you at.

Mathew Woodside: I am at Andrew Jackson up in Titusville.

Sue Schmitt: Thank you.

Mike Haridopolos: Mr. Nye for a question.

Matt Nye: Sir thank you for bringing that information. Is there any tracking going on so there, you are being prohibited from, like is there any tracking going on so there is data to show how frequently?

Matthew Woodside: No, there is not because, and I think there is not because they are operating in the dark because the less parents know, the better. 29.02 The less parents know the better, they are starting to know, and starting to raise a fuss. What I proposed at the last school board meeting previous to this one was a new policy, much like our Covid policy which required parents to be notified the day a kid tested positive for Covid. They sent out a school wide email, letting them know somebody in your school (anonymous) tested positive. Yet when we have these scenarios happen, there is communication to parents. Parents have no idea. These kids in that locker room, their parents had no idea, they gave no permission, and they still wouldn't know unless kids went home and told their parents. And so, there is no tracking because there is no initiative on that part by our school board.

Mike Haridopolos: Another question, Ms. Rogerson.

Marie Rogerson: Sorry, just a follow up question. Is it also the policy of BPS that if you were to speak to one of their parents you could not inform them?

Matthew Woodside: So, I am trying to get to the bottom of that. In fact, I have called legal and I am looking for the answer to that because, separate situation, pronoun name situation. We had a teacher in our district who wanted to notify the parent because the kid wanted to go by a different pronoun and name. The teacher told the kid, let me make sure, I have got to have your parent's permission that way I am not lying to your parent when I refer to you when we have conversations and it was circle back from guidance counselor to assistant principal. He emailed them back: do not email that parent, do not make that contact. And so, if we are not allowed to talk about pronouns, one could assume something more abrasive that this would be frowned on as well.

Mike Haridopolos: Mr. Trettis for a question.

Blaise Trettis: Thank you Mr. Woodside for having the courage to say what you are saying and what is going on in our school system and the schools. I wanted to ask you, have you seen instances where kids are not really transgender, they are really just taking advantage of the situation because they know they will suffer no penalties, and they know they can get away with whatever they want to do?

Matthew Woodside: At my school, not so much that, I will be honest. A lot of it is there is a lot of confusion, a lot of kids are struggling with who they are, a lot of identity crisis, not just in these kids, but in every kid in middle school. So, but I have heard from trusted teachers across our district who used to teach at my school that this has happened at her school. The bathroom is right next to her classroom and there were boys going into that restroom, identifying as a girl for the day, knowing that it was a joke with girls inside, she was hearing girls scream from her classroom. She said there was nothing we could do, the dean told her there was nothing we can do. And so, luckily for them they held a county meeting, some parents showed up and they came up with a third option where

kids will have a private bathroom to use instead of going into the other bathroom. The problem with that is, that is exactly what Adams versus St. Johns County was about, right? The girl was given the third- party bathroom and that was not enough, she wanted to use the boys bathroom. State sided with Adams, and now that is the court case that our Brevard County is leaning on, but that is in federal appeals court right now so...

Blaise Trettis: I am looking at the transgender policy which is a one- page policy by the Brevard Public School Board, and it has number eight which is called Action Pride. It says " All faculty, staff, and students are afforded the same rights and protections under district, state and federal policy. It is imperative that other school students, parents and staff feel safe, included and empowered on our school campuses and at school board related events and functions." So, is this policy to your belief, does it apply to teachers, so that if a man said that he identified as a woman that he could go into a children's bathroom at a Brevard Public School?

Matthew Woodside: I would challenge somebody to say that it doesn't because how could it not? And so that is the point, it hasn't happened yet, but this is what we warned against in 2016 when they changed the policy language. They changed our anti-harassment language from harassment to discrimination, and they added the qualifier based on gender identity. And, many of us went before the board many times and warned them. This will result in bathroom and locker room use. This has happened before, right? Outside groups have come in and used this for the conduit for this to happen. And Mrs. Belford who was on the board at the time along with a couple of her colleagues, Mr. Ziegler, and I forget the other individual. They basically kind of condescended laughed at us. Told us we were misguided, uneducated about the purpose and the limitations. The purpose was to provide safety for all of our kids, and the limitations were that it would never result in locker room, bathroom use, never. And, they were wrong on both counts, as we have seen, you are endangering all of our kids and it is exactly resulting in locker room and bathroom use. And when I say no to it, I have had many conversations with my administration, and I have told them: You are going to have to fire me, and if that is the case, so be it. Because over my dead body, see I am the one, see here is the problem, and I am sorry I get a little heated about this. I am the one that has to open the door for these kids. I am the one who has to say here you go for a girl to go into a restroom or locker room with fifty middle school boys, or vice versa. We had the scenario at my school, and luckily the parents weren't on board. Because if they were, that boy could have went into that girls locker room with fifty girls, dropping his pants, just like this scenario. I am going to tell you this, I am going to tell everyone in this room, this might sound harsh, look at me. That is not loving. Sometimes the most loving thing we can do is to say no. And when it is not for the good of these kids, let's stop being politically expedient, let's stop being cowards and call things what it is. I am sorry I get a little heated.

Mike Haridopolos: I have a couple of questions for you. Usually when there is, I would imagine you are not the only teacher who has concerns about this, and the ambiguity of the law and the application of the law. Usually a teacher's union would step in and make comments to support their fellow teachers. Have you spoken with the union about this?

Matthew Woodside: No, I am not part of the union. So, I don't really

Mike Haridopolos: Have the taken any interest in this?

Matthew Woodside: Nope, nobody has. That is the problem. The, not one school board member has reached out to me, not one union member has reached out to me, my administration is not talked to me. Hopefully parents are going to start waking up, but no, I have had nobody reach out. I have spoken on this, been interviewed by NBC, Kate Snow, I have been trying to let people know this is happening.

Mike Haridopolos: And the second part of it is when you, I guess the school board is leaning on this Adams decision you are saying?

Matthew Woodside: Yes sir.

Mike Haridopolos: And their fear is that these people, whatever want to go in these different bathrooms would sue the school district if you did not follow that. That is what they are falling back on?

Matthew Woodside: From what I understand, yes they are saying we are just following our, they weren't forced into this position but they opened the door with the language change so, but like I said, that court case is, and I am not a legal scholar, but from what I understand our court cases that are in federal appeals court, they stay the decision, the decision is stayed while they are in appeals court, and if that is the case then that ruling doesn't even apply. So, and again that is for you legal experts, and so.

Mike Haridopolos: And again, I guess one last one would be again you are implying it, I don't follow this as closely obviously than you do, but you are implying that the school board members support this Adams decision? Is that?

Matthew Woodside: Yes.

Mike Haridopolos: And, has there been, I mean we all live under the Sunshine, even this group. Has there, who would be lobbying the school board on behalf to keep this policy that seems to be very controversial?

Matthew Woodside: Its, its, culture, I mean right? I think part of the fear is that as we have seen is that anyone who comes out against this is seen as a bigot and a villain, and I understand that a lot of people in this room may look at me like that but I apologize that you are misguided. I am not a bigot or a villain, I don't hate these kids, it is precisely because I love them that I am speaking. And I included those transgender kids, so.

Mike Haridopolos: Mr. Nye for a question.

Matt Nye: Yeah, you mentioned they opened the door with the policy from several years ago under prior school board members. Is it possible to just unwind that by changing the verbiage or has that horse already left the barn so to speak?

Matthew Woodside: I don't know about all of that, but I do know that when Saint John's County has explicitly enumerated their policies, and like I said, locker room, under Florida law, under locker rooms it says, "there is no specific federal or Florida state law that

requires schools to allow transgender students access to the locker room according to their transgender identity." and then they have their best practices saying, we don't allow it. So, a document like this could be formed allowing changes like this.

Mike Haridopolos: One last question, go ahead Mr. Trettis

Blaise Trettis: You are correct, the Adams decision, there is no mandate ever been issued. It is not final. There was oral argument in the 11th Circuit Court of Appeals on February 22nd. So, there is no federal decision, which requires this policy, the Brevard Public Schools. The ironic thing is that this policy of the Brevard Public Schools is actually inviting lawsuits. There is a lawsuit pending in federal court in Tallahassee for the reason that a child's parent was not told about that child trying to transgender/ transition while at school, and the plaintiff is suing because the school did not inform the parent of these facts. And this is exactly the confidential identity action 7 in the transgender policy of Brevard Public Schools which you ran into which prevents you of notifying a parent of a child who says they are transgender and wants to use different bathrooms of the different sex. So, they are misguided in that, and I just wanted to point that out.

Mike Haridopolos: Well thank you Mr. Woodside for coming in appreciate your time, sir. Thank you. Next, we have Pamela from Melbourne. Castellano. welcome back.

Pamela Castellano: Sorry? Thank you. I didn't know if you missed me much last month. So, here I am again as this is the final reading for this proposal,

Mike Haridopolos: We have a couple of more so, we have one more

Pamela Castellano: Oh, good, thank you, I thought this was the third. I apologize. Misunderstood. I don't (inaudible) Making the school board elected officials available for recall. I want to make sure, if you missed my e-mails and all my comments, that I do not oppose that general idea. All elected officials should be held to the same standards, including the Public Defender, who is not. The hypocrisy of this proposal is mind boggling and it is an emotional topic, I get that. Mr. Trettis is adding one office to this policy, but not his own. Furthermore, he would make five elected officials in our entire state eligible for recall because of their policies. That is what an election is for. Not a recall election. Finally, his very reasoning is flawed. You keep referring to policies by the school board. The guidelines are not a policy. They weren't voted on by any members of our school board. They were guidelines put in place to allow teachers and staff and administrators guidance on how to follow federal anti- discrimination law. Those guidelines were put in place with four of the current school board members serving on the school board when put in place. They were the board when the measures were put in place. Matt Susin, Katy Campbell, Misty Belford and Cheryl McDougal. They were on the board at the time those guidelines were put in place. As was now former school board member Tina Dusckovitch. They are not a policy, so they don't even back up your argument that you should be able to recall a school board member based on policy. They were guidelines, not policy. They weren't voted on. If you aren't happy with federal law, perhaps you should elect better federal representation. This is federal anti-discrimination law. Our state constitution grants every natural person, not every adult over 18 -- every natural person has the right to be let alone and free from government intrusion into the person's

private life, except as otherwise provided within. That is why teachers are not allowed to betray their students' privacy say by telling their parents. I don't know if I like it, I don't know if you like it. But that is our Florida State Constitution, and that is where this lies. Surprised I am having to say all this again. We are currently in several title 9 lawsuits with our current guidelines in place. I can't imagine what we'll be dealing with without them in place. The teachers and staff were begging for guidelines because each school was handling this on an individual basis, just like the current uproar about books in libraries. That each school should not have to be dealing with themselves. They wanted a county wide policy these guidelines were created so every school in our county had official guideline they could follow to provide for federal anti-discrimination law. Any questions?

Mike Haridopolos: Are there questions? Mr. Trettis for a question.

Blaise Trettis: I want to first comment on your reference to public defender not being subject to recall. Public Defenders, and State Attorneys are state constitutional officers. Under article 5 of the State Constitution. The County Charter could not do anything about a recall of a state constitutional officer, just like the County Charter couldn't try to remove a State Legislator or the Governor okay? So that is why the State Attorney or Public Defenders can't be affected by recall proposal in the County Charter. But just for the sake of argument, I would suggest you and others who would like to try to recall state attorneys and public defenders amend the constitution to do that, because I think it is actually very important that the voters have that ability because, for example, in California, where there is the ability to recall district attorneys, both the state attorney, the district attorney in San Francisco and Los Angeles are now up for recall because their George Soros funded liberal democrat district attorneys have ruined those cities by not enforcing the law. And those voters have the ability to recall. So, I would encourage you to get the Florida Constitution changed so that district attorney's and public defenders can be recalled. Second thing I wanted to mention to you, is that although the transgender policy at Brevard Public School system may not have been voted on, it may not have been voted on, it is certainly -- as an existing school board member, is certainly capable right now, next week at a school board meeting, of making a motion to repeal this transgender policy. And that's how this recall provision can be used, by getting a school board member to make that motion, a transcript will be had of it and they will have to vote on it and go on record. So, I agree with you, that no school board member has had the guts to recall this transgender policy. Finally, I'd like to point out that you keep citing federal anti-discriminatory law. Federal laws are in the United States Code, like Florida statutes, sections So I would like you to tell me what United States Code section requires Brevard Public Schools to order teachers to not inform parents that their child is trying to transition their gender while at school. What United States Code says that?

Pamela Castellano: Actually, I didn't say that was in United States Code. I said that is in our Florida State Constitution where it says every natural person has the right to be left alone and free from governmental intrusion into the person's private life except as otherwise provided.

Blaise Trettis: You repeatedly said federal anti-discriminatory statutes.

Pamela Castellano: Yes, that's a different

Blaise Trettis: I want you to cite the law. Since you say it is the law, cite the law to me.

Pamela Castellano: I am not going to cite the law to you, Mr. Trettis, I can't do that.

Blaise Trettis: Because there is no law. The previous speaker was correct.

Pamela Castellano: There is a law. The anti -discrimination law from 1972 absolutely exists. You wonder why I get into an argument with this guy. You are going to let him bully me when I try to answer.

Blaise Trettis: you cut me off every time.

Mike Haridopolos: You both are having let's take it down a notch and let the question finish. I always give the opportunity to answer.

Pamela Castellano: I can't cite the law.

Blaise Trettis: Because it is not the law. The previous speaker was correct, it is not in federal statutes. That's all.

Mike Haridopolos: Any other questions?

Pamela Castellano: My inability to cite federal law doesn't mean it doesn't exist. I also can't cite the law that tells me I can't speed on the highway, but I know it exists.

Mike Haridopolos: my only 2 cents would be is we have one more meeting and if you can find it out that'd be great. If not, so be it

Pamela Castellano: It still doesn't change the idea that your whole premise for wanting to recall school members is based on fallacy. You're saying -- and you want five people in our entire state to be recallable based on policy. That's retribution politics at its worst. You won't have school board members making decisions that is in the best interest of your students. You will have school board members making decisions on what is going to keep them in office. That is -- I don't understand why you think five people in our entire state should be held to a different standard than any other recallable office. Do put them on the recall list. Absolutely. I do not have a problem with that. I'd love to be able the one that lied on the first day of school from the dais in the school board meeting, but you can't make it based on a different standard than any other in our State, I mean you can-- you can do whatever the heck you want. I just want my opinion to be put on public record that it is a bad idea.

Mike Haridopolos: thank you Ms. Castellano. All right next we have Katy Delaney Welcome back. Ms. Delaney.

Katie Delaney: Wow. As we all know, this is an extremely emotional topic. I deal with a lot of teenagers from all across the county for what I do for work, and what I can tell you is that kids are not feeling safe at school. They're not. And there has to be some kind of compromise. And the reason why I am for being able to recall school board member on policy is because when policies affect everybody -- when did women stop mattering? When did girls' safety stop mattering? The fact that a boy wearing boy clothes, can go into a girl's restroom and they cannot be questioned -- that's wrong. Our girls deserve to

feel safe in school and our boys do, too. I'm not saying boys don't matter. Our boys do, too. And you know what, the transgender kids deserve to feel safe at school, too. But there has to be a compromise, but what we are seeing right now in the schools, there is no compromise. I regularly get called a liar by the school board on tv, and after the school board meeting I go up to them and show them my facts and they -- they never apologize. They never make it right to the public. But I don't care about that. That doesn't matter. It's -- these people -- there is no way to hold these people accountable and when they're making policies that affect our children and their safety and their mental health, I am for being able to recall somebody because of an unsafe policy, especially when these people -- they don't want to listen to us. We have to beg them for time to speak. Katy Campbell basically told us the other day that we should be thankful for our three minutes. And that's how they all feel. They all feel that way. They feel that we are an annoyance. But these are our kids and we are not going anywhere. We are not going anywhere. We are not going to stop, so thank you.

Mike Haridopolos: Any questions for Ms. Delaney? Thank you very much for coming in today. There are no other appearance cards on this proposal number two. The only question I have -- I know we had mentioned in the last meeting about potential costs for a recall. Have we received anything from Lori Scott's office?

Jim Liesenfelt: No, I am working on that. You'll have it at your next meeting

Mike Haridopolos: Okay, great. The only other issue that came up, we are going to handling number 18. I know Vic is not here today. He has the proposal dealing with recall, where I think it would apply to everyone. He cites the example that's been done in Colombia, Duval, and Sarasota, I think that is from our notes as well. Mr. Trettis, did you have an opinion on number 18? Do you want to keep them separate or fold them together? What's kind of your take This is your amendment and you can do as you wish. I just wanted to bring that to our attention so we could have a thoughtful discussion about it.

Blaise Trettis: I think Mr. Luebker's should be folded into my proposal because mine has strike throughs and underlines, really. It is the same proposal, but it is easier to read, really.

Mike Haridopolos: And what is your thought on what would apply to all?

Blaise Trettis: It applies to all county constitutional officers now. It was just a clerical scrivener's error in 2010. Whenever it was. So, I'm of the opinion that there's always been a recall of Brevard County constitutional offices, and that clerical error doesn't eliminate it, but now that it's been brought to our attention that there was a clerical error, certainly didn't eliminate it. But now that it has been brought to our attention that there is a clerical error, then the proposal is to correct it. That is all it is.

Mike Haridopolos: Okay, any other questions on this? All right, is there any opposition to moving forward on this item for number three? >> (off mic)

Kendall Moore: You have created a new opportunity for us to lodge opposition today based upon the procedure that we have all agreed to. I actually sympathize with the

teacher who came forward and may even agree with some of the policy positions. You used the word "policy." Mr. Nye used the word "policy. " and I think if there are policy issues they need to be taken up with that political body just as we would with any other. That is number one. Number two, we have a mechanism to deal with individuals whose opinion you don't agree with their political position. It is called an election. It already exists. Four, I agree with two of the issues that were raised by Sue earlier out of her concern. And last but not least, our attorney Mr. Gougelman raised some questions as to whether or not we have the ability to regulate in this area. So, even though I may agree with some of the policy positions stated, amending the Charter through the utilization of this purpose is one that I do not agree with. I don't know Mr. Chairman what you have established as the policy or procedure today, whether it is a motion for that consideration that this be removed or however you see fit.

Mike Haridopolos: Well I just see it, one that we have a discussion, and at the end have if the majority of members present choose not to go forward, we need majority. If six people say, you know what, I don't want this to move forward, it is no longer under consideration. That is how I see it. Anyone not agree with how I interpreted it?

Kendall Moore: Happy to see if there are five others that may see it that way.

Mike Haridopolos: And second thing I would just point out I wanted to ask to Mr. Trettis is, you mentioned it in your opening comments about when this election would take place. It would be no cost if it were during a general election. Clearly if there is a special election county wide it would be pretty expensive. District wide it would be pretty expensive. Are you open to the idea of if a recall could shorten someone's term, meaning if they are in a four-year seat for example, that they'd be up for election again at the two-year mark?

Blaise Trettis: (off mic). I understand it's very expensive and I think it actually just might make recall proposals, petitions more likely to succeed because of that change. I'd be amenable to that.

Mike Haridopolos: And the reason I am bringing it because I talk to a lot of people in the community and the sense is one of the consistent measures we are hearing from everyone is elections decide policy, right? And so, if there is a concern about one or multiple members, whether on the school board or other positions, this maybe our version of recall in Brevard County could be that you have to face the voters in the next general election, even if your term isn't up that is something, it is just a thought. This could be more controversial Mr. Moore as you brought up, second on the legality of it. So, if this is such an emotional issue, which is clearly is. Do we create our version of recall that they are up for election early, as opposed to having a recall, who knows what the result might be, then we would have to have another election on top of that to elect the next person? We are -- I'm sorry. That's if we do move forward, that's something I'd like us to think about. But with that said, are there six votes to stop this discussion today? Is anyone in support of Mr. Moore's proposal to stop this discussion today? Mr. Oliver.

Cole Oliver: I'd recommend -- I would echo a lot of the comments that Ms. Schmitt made. If this proposal could be revised to include the school board members to be subject to

recall for the same reasons the state statute sets forth, which has a large body of case law that has been put out there's been out there defining what the terms are, I think I could get behind that but just for a policy decision, I also echo the other comments that have been made. I think that is what elections are for. You know, on the policy side, it sounds like the issue that has been brought up by most of the speakers isn't even a policy that would subject anyone to recall at this stage. So, I am a little concerned this is looking for -- presenting a solution to a problem that's not even available to be solved in this manner. I would support, as it is drafted now, Mr. Moore's proposal.

Mike Haridopolos: So again, we are dealing -- kind of a legislative matter, anything can be amended, even if the sponsor doesn't like it with a majority vote. So, this is why we are having this discussion. We could continue and bring all the elements into our third reading for next time, or we can continue debate today. Whatever the board would like to do. Any other thoughts?

Gabriel Jacobs Kierstein: I just wanted to mention that I concur with that as well. Short and sweet. That particular -- I agree that recall is a good idea, and that the majority of this particular proposal is on point, but that issue of being able to insert politics to pull somebody out or to not agree with somebody's policy is problematic for me as well.

Mike Haridopolos: Okay. Yes, sir. Mr. Chandler.

Jordin Chandler: I would like to say I also agree with the same sentiments as Ms. Schmitt, Mr. Moore, Mr. Oliver and Mr. Gabriel.

Robin Fisher: I would agree with them and also. on your suggestion, I have a concern. If it is not legal, according to Mr. Gougelman then changing it to two years when you didn't have a right to change it at all anyways wouldn't be legal too, anyways. Anyway, I agree with Mr. Moore.

Mike Haridopolos: Okay. Well Mr. Trettis then my suggestion then is that there are probably the votes to remove this if we don't adjust to what Ms. Schmitt's good suggestion it is proven case law and language you'd like to insert in this to move forward. But it's your proposal, so please let me know what you'd like to do.

Blaise Trettis: I'd be glad to, I think it is a good idea to amends the proposal to provide an election during a regularly scheduled election to avoid the cost part. And I although I think it is sort of, although I really don't agree with it, but I'll be glad to add all the reasons the state law provides, but not willing to remove the policy votes. Because when you look at the state statute, it's misfeasance, malfeasance. There's not misfeasance that's breaking the law. Malfeasance is not breaking the law, but doing something in an illegal or improper way. And then there's all the drunkenness and neglect of duty, which is not ever going to happen. So, I think it is somewhat toothless state statute. I'd be willing to amend it in those two ways, but not remove the three vote that is in the proposal now.

Mike Haridopolos: Okay, other comments.

Sue Schmitt>> (off mic). >>

Mike Haridopolos: I mean, I would make the motion on this if I was in position of Ms. Schmitt, I think you have the votes to -- even though Mr. Trettis doesn't like it, I think you have the votes to put your -- insert your language and take Mr. Trettis' out and you'd have the votes to move forward. I think that would be -- >>

Kendall Moore: (off mic) Mr. Chairman, I would love to have the procedure you outlined which was in the event there were six votes in that particular instance that proposal ultimately dies, I mean certainly it could be reconsidered if Mr. Trettis was open to that particular change. I think he said he's not willing to do so.

Mike Haridopolos: I agree with you, Mr. Moore, I'm just trying to talk it out so we understand what we are voting for or not. Really, it is in your hands Ms. Schmitt. If you want to amend it, or just have an up or down vote, it is your call.

Sue Schmitt: Well, first let's amend it. I mean, I believe that because the Florida law is very specific in saying that counties and municipalities and also then speaks to the issue of school boards, which it does say -- and even Mr. Gougelman's information that he has given us has made that very clear, that there is things we can't do according to school boards. I do believe that section that refers to the recall should be amended to be under Florida general law. I want to make it real clear. I happen to have four children. They are not in school anymore, thank God. But I have happened to agree with a lot of things that have been said and I appreciate a teacher that is willing to come forward. But I also believe that we have an obligation to go by the law. And that's why I asked for this to be changed.

Mike Haridopolos: Okay, so the motion on the table before Mr. Moore's vote would be to strike the Mr. Trettis' language and insert "current law".

Sue Schmitt: general law. Florida general law.

Mike Haridopolos: Okay, all in favor of that -- >>

Blaise Trettis: I have a discussion on that. If this is Robert's Rules of Order which applies here. It is my proposal I thought, it is my proposal so I thought I had to agree to amending it. I said I'm not so it either lives or dies on a vote. Goes on or can be voted down, but it is my proposal. I don't believe that under Robert's Rules of Order, this body can change my proposal without my agreement.

Kendall Moore: Mr. Chairman, I think there was a pending motion. I was more than open to your ability to help Mr. Trettis to get there and for the sake of consensus, I would agree with Ms. Schmitt's proposal, even though it was different than what I proposed. If this body votes in the direction that she sees fit, I'd be happy to join that, although not wholeheartedly agreeing. Not sure I agree with Mr. Trettis' whole Roberts Rules perspective because the second motion would never be alive or created in the first place. I think you offered a lifeline that may not be taken.

Mike Haridopolos: Mr. Trettis, I think they are correct. This is a legislature even it is your bill. We can amend your bill as we see fit under these rules that we are operating on at this point, if you don't amend this proposal, I would guess there's probably the votes to

remove this from the order. So, it's your decision. If you want to let it -- the proposal dies, that is your decision, but I think you understand where the votes are at. Your decision.

Blaise Trettis: I think this is Robert's Rules of Order. I don't think it can be amended by the body. I think I have to agree to it. I don't agree with removing the three vote -- you have to three votes of the school board members. I would like to also point out that I think it's been incorrectly characterized that Mr. Gougelman says this is not according to law if you took the time to read the letter to Attorney General or request for Attorney General opinion, you'd find the opposite. The argument was it does comply with the constitution and Florida law. I wanted to make that argument. But no, I'm not willing to change the proposal or remove the up to three votes of the school board member as a reason for recall.

Mike Haridopolos: Okay.

Sue Schmitt: I will withdrawal my motion.

Mike Haridopolos: All right, Mr. Nye

Matt Nye: (off mic)

Mike Haridopolos: All right, So there are no amendments to this proposal; So, there is a motion for Mr. Moore. Is there a second for this to be introduced? Mr. Moore's proposal to strike this from consideration.

Robin Fisher: Second.

Mike Haridopolos: Okay, Mr. Fisher seconds that. We'll have a vote. Those in favor of Mr. Moore's proposal to eliminate this from consideration say yea. All those opposed say nay. Why don't we go to a vote, so why don't we call the roll? All those that support Mr. Moore's motion vote yes. All those in opposition to Mr. Moore's motion vote no. Roll Call (see attached voting record)

I believe it's 6-5, yes? By your vote, this proposal has been removed. Okay,

Paul Gougelman: I think this might obviate the need for the attorney general opinion.

Mike Haridopolos: then that's good. I appreciate that.

Paul Gougelman: We would seek your guidance on that.

Mike Haridopolos: We'll talk about it after. We are not going to take up number three. That's been removed, number four has already been removed. Repeal the three- attorney panel, that is hearing number two, also by Mr. Trettis. Mr. Trettis you're recognized on your idea.

Proposal 5- Repeal the Three Attorney Review Panel- Public Hearing 2

Blaise Trettis: This would remove the three-attorney review panel of proposals that are passed for -- by this commission. And there is no other county charter that has such a proposal, I think there is conflicts of interest in this lawyer panel. I also don't think it could possibly be done in a timeline that is available left because if we voted approval even as

early as this meeting, the County would have to hire three lawyers and get their decisions pretty quickly. I forget when the supervisors or of elections needed these proposals back, but I think it was said in August, and I don't think there is enough time for it. And I also think it is rather undemocratic for a three-attorney panel to be able to defeat proposals that come out of all the work of this commission. It also has the wrong language in the charter as far as the review that these attorneys are supposed to do. It says if it is consistent, attorneys say if it is consistent with state and general law in the constitution, the actual language in the constitution is if it's not inconsistent -- there is a difference between those. It has the wrong standard. It also doesn't require these attorneys to express what level of confidence they have in their opinion, like by a greater weight of the legal authorities, or by clear and convincing weight of the legal authorities. It is completely subjective how they decide. For those reasons, I have made this proposal to strike it from the charter.

Mike Haridopolos: Okay, thank you. Any other concerns about it? Is everyone comfortable moving this proposal forward? I'll take that as a yes. So, we will move to the next item, that is item six.

Proposal 6 – Right to Clean Water- Public Hearing 2

Mike Haridopolos: Mr. Myjak and his Right to clean water. It is public hearing number two. We have a few appearance cards on that matter. Mr. Myjak, I believe you are, there you are, welcome back, sir.

Michael Myjak: Thank you, good to be here. Michael Myjak, Alpine Lane. I am here to support the right to clean water. We made our case last time. I'm here to try to answer questions that I may have and possibly that our legal team may have, which is why I requested and perhaps at the next meeting we could have a zoom conference call and bring in our legal team to answer any specifics you may have with regards to clean water, but that was really what I wanted to ask.

Mike Haridopolos: Thank you, sir. Questions? Mr. Trettis for a question.

Blaise Trettis: I'd like to commend you for the work you have done. Your intentions are good. Your materials are very well researched and I know you have a lot of support and everyone wants clean water, no one is against that. I would point out, though, that -- I give you credit for being forthright in your materials because you point out there is a state law that contradicts directly your proposal. That was passed in 2020. That Chapter 2020-150 laws of Florida where section 403.412-Environmental Protection Act, paragraph 9-a, this was added as language: "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 any plant, animal, a body of water or any other part of natural environment that is not a person or political subdivision that is defined in 1.018 or grant such a 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". You point this out and I applaud you for that, but to me this is a direct preemption by the state legislature. I did a little researched on it and it looks to me that this law actually passed in response to the Orange county charter which created a right to clean water so the

legislature saw this and specifically passed law to prevent your proposal from becoming a part of a county charter. Do you agree with this?

Michael Myjak: No, I do not agree with it. I think we are bypassing the state preemption. In this case we have a right to declare, what universal rights we wish to have. In this case we are declaring the right of clean water, just as we'd declare the right of free speech or right to carry guns or any of the other rights in the bill of rights. This approach is what is outlined in our state constitution for us to modify our charter. We the people get to say water has a right and if we make that right, then we can declare that and live by it. That is what gives us the foothold to hold the state accountable for the damages they have done with their permitting authorities.

Mike Haridopolos: Mr. Trettis for a question.

Blaise Trettis: I was wondering if Mr. Gougelman has had a chance to look at this and maybe he could offer his opinion if he has.

Paul Gougelman: Actually, I have not. I have it under review right now. A question was raised at the last meeting. I think Mr. White raised that. We put our effort into trying to get the attorney general request done. So, hopefully by the next meeting, we will have a response to you on that.

Mike Haridopolos: Other questions on that for Mr. Myjak. Mr. Oliver.

Cole Oliver: I have a question on that in Section 5.71 it states that attorney's fees and costs of litigation shall be awarded to the prevailing plaintiffs. Would you be willing to change that to prevailing parties? I know that is kind of a weird situation here because the plaintiff is a river or tree or whatever and probably doesn't have the ability to pay back the other side if they win and proves to not be meritorious.

Michael Myjak: I think the point of that is to lay the cost of the remedy on behalf of the polluter. And if the polluter is not found to be polluting, then the cost would be borne by the person or people who brought the suit. The idea is to give us the same standing as a corporation would have in court, and so we talk about everybody having the right to sue, but the point of the matter is it's only those that have just cause that will make it through this process and it won't cost the county anything.

Cole Oliver: Right, but this is specifically funding the plaintiff's attorneys, fees and costs, not the remedy of fixing the pollution. That was my question.

Michael Myjak: That is beyond my scope and that is for you guys to decide how you want this to happen. We brought forward to you the idea of clean water and ways to implement it so you could decide what goes forward in Brevard County.

Mike Haridopolos: Any other questions. We appreciate you coming in. We'll go through the list, thanks again Mr. Myjak. Jim Deroucher from Deland, Florida. Welcome to Brevard County.

Jim Deroucher: Thank you, so I am from Deland, Florida, but I was formerly a 33-year resident in Cocoa beach and a business owner. I had two businesses in Brevard County

for many, many years. I'm here as the Florida rights of nature network representative. I'm the east central regional director for the organization. And anyway, using Brevard's home rule charter to benefit the greatest number of citizens, I urge you to use the right of clean water forward, and vote to put it to the county commission for placement on the 2022 ballot. The people of Brevard have a right to determine their destiny and the quality of their waterways and human ecosystems. We all know the condition of the Indian River Lagoon and other waterways in Brevard county, and the citizens have spoken loud and clear and willing to pay for it. What is important to them and their families. This one small change would have beneficial effects on peoples' life, health, prosperity and future. It would have potential to recreate lost jobs and prevent further collapse of a natural estuary. The citizens of Orange county are the only Floridians who have standing in a court of law, and a fundamental right to defend future damage to their waters. In a bipartisan landslide, 89% of the voters approve this amendment in 2020. But a 100% of the residents will benefit from the charter amendment that was passed there. As a participant in the 2020 campaign, I am here to discuss any and all of your concerns, and if I can't answer it, I will get the answer from some of our professionals. The Orange county right to clean water charter amendment passed on November 3, 2020. And took immediate effect. In the last 18 months since the inception of that new law, it is produced only one lawsuit total. That case is ongoing. The other effect this amendment has likely achieved is like a holstered gun on a county sheriff. It may have prevented the most egregious damages to the Orange county waters because it kept things from happening. I can start a corporation with my cell phone right here in 15 minutes I can start a corporation. But a corporation doesn't breathe air, doesn't have a heart, but the corporation can bring a lawsuit and have unlimited free speech. We are just asking for a similar opportunity for the people to defend nature, which we all depend on. We all know our lakes, rivers, estuaries, are in critical collapse due to unenforced state regulations and permits which allow and legalize pollution. This is a simple, no cost solution for the lagoon.

Mike Haridopolos: Any other questions? Mr. Fisher for a question.

Robin Fisher: I have a question. I don't understand the law and I don't understand the plaintiff and defendant and all that you attorneys do, but help me understand something. The -- I have a greater appreciation for the river than I ever have because I just recently moved on it and I enjoy it greatly. But if this was passed and let's say, give you example, the city of Titusville had a sewage spill, a pipe busted and sewer went into the river, what does this law allow you to do?

Jim Deroucher: Okay. And they did have that. They had 7.2 million-gallon spill.

Robin Fisher: They used to dump in the river years ago, too so I understand.

Jim Deroucher: Absolutely in a case like this, I am not a lawyer so I'm just going to tell you my opinion, but I have been with this for several years. I think is that a citizen would have the right to sue the city of Titusville to correct the problem and pay for the remediation of the pollution. They would not make any money out of it. But if they did

need to call in an expert to document it, those expert fees could be awarded by a judge. That is the part that he was talking about a minute ago, the gentleman over here.

Robin Fisher: Wouldn't the EPA make Titusville clean it up anyway?

Jim Deroucher: Probably not. It happened

Robin Fisher: I have seen Titusville be fined for it, it could happen to any other city. I don't want to just pick on Titusville. I have seen the municipality have to take on the responsibility of cleaning that up and mediating for it and all those things. And so, I'm trying to figure out what this does over what the city was going to do anyway.

Jim Deroucher: Well, I don't think this -- the city didn't clean up the ponds. You know, that stuff is still in the bottom of the ponds. They sucked out some of it, but didn't take it all, and a lot of it went into the lagoon. And I don't think they did anything other than they may have gotten a small fine.

Robin Fisher: So, what would you like to see happen above a fine and them cleaning it up? >>

Jim Deroucher: I would like to see it cleaned up. I'd like to see them do something to mitigate the damage that was done. 7 million gallons of pure sewage can cause a tremendous damage.

Robin Fisher: To my knowledge, I think they cleaned it up, at least that is what their officials are saying. This is my concern. As a county commissioner, I can remember trying to increase utility fees to replace these ageing sewer lines that were throughout our county.

Jim Deroucher: Yes, sir, I remember you doing that.

Robin Fisher: And took heat for it because it was a form of another tax increase, is what they told me. And when I was making that decision I was making it because I knew at some point there was going to be failure in the system. And this bill -- and I'm trying to make sure I understand it, but if people aren't willing to tax themselves to replace sewer lines, they are going to fail at some point in time, but yet they want to have the ability to come sue the municipality because they had the breakage. That seems unfair to me. So, I am trying to figure out how to get around that scenario because if it is just about suing, I think we all want clean water. I want clean water, like the rest of us. But I also want people to take responsibility for replacing their infrastructure as it ages and as it goes down the road, and can't -- we got to have it so elected officials come in saying I am never going to increase your taxes if I get in office. That was never me, but you got issues with infrastructure in this county that's old and I just see -- and then you're going to turn around and sue the municipality for not fixing infrastructure, and having the failure, but you weren't willing to tax yourself to repair it. That's my issue with this. And I -- if you can get me over that, that'd be great. That is where I am at today, I am not supportive of it because until people are willing to pay their taxes and fees to replace the things that are ageing, then I have a hard time with it.

Jim Deroucher: Well, if you think about it this way, if the city of Titusville has to pay for the clean-up then the people of Titusville are actually paying that, Right?

Robin Fisher: Well yeah.

Jim Deroucher: In an essence. So, then they would have to be willing to do that because Robin Fisher: Then that's going to cost me money. The city -- those residents in Titusville are going to end up having -- pay me now, pay me later. You can make that argument. To have to be sued to do it, that is not right. Do it on the front end to me.

Jim Deroucher: I don't disagree with you. I think if we did things right we wouldn't need the regulations even at the state level, but this will help to promote that. It's the holstered gun thing. If you know you're going to get fined and have to go to court, then you're going to be more inclined to do the right thing and spend the money ahead of time to correct a potential problem.

Robin Fisher: okay.

Jim Deroucher: that is the way I see it.

Mike Haridopolos: Any other questions? I have a quick question. Who funds this organization?

Jim Deroucher: We are all volunteers.

Mike Haridopolos: But you're talking to a lawyer. Is the lawyer volunteer, too?

Jim Deroucher: yeah, we have five volunteer lawyers.

Mike Haridopolos: As I am trying to understand, the bottom-line, is you want to have the power to sue in court, and have standing

Jim Deroucher: No, not us sue. No. We won't have anything to do with it. It will be the citizen in Brevard county or citizen in Volusia County if they have it. In Orange county. We are not involved in that.

Mike Haridopolos: And this organization takes the belief that whatever funds are given out, there would never be any legal fees?

Jim Deroucher: We would never collect any.

Mike Haridopolos: who's we?

Jim Deroucher: FRAN- Florida Rights of Nature Network.

Mike Haridopolos: And who is that?

Jim Deroucher: a group of grassroots volunteers who came together in 2019.

Mike Haridopolos: who funds them?

Jim Deroucher: We fund ourselves.

Mike Haridopolos: This is the world I live in. And the only thing -- I appreciate the back and forth, obviously we will have to vote on this at some point -- what I see, more often than not, like when they pass -- when their constitutional amendments pass, that cost money. What we have seen on the state side has been a cost shift or spend shift where taking money out of roads or something else in order to pay for a thing if people -- I am willing to raise taxes that is your point as well, right? That tax increase might never have happened because -- I appreciate your bringing these good points and expertise. Thank so much.

Jim Deroucher: Could I answer Mr. Trettis' question about the senate bill 712 and preemption. We don't think that preemption is constitutional. Our lawyers don't think it is. When that comes up in a court of law, which eventually it will, we think it will be struck down. It was added at the last minute and it was one paragraph and 111-page document, senate bill 712 and it was just slipped in there. I think because we are working on this Orange county thing. And -- we don't think it is constitutional. And it's been changed. We are working around that anyway because we are not granting a right of the river, okay? We are granting a right of citizens of Brevard county to have clean water. Very different thing. We're not granting rights of nature. I'd like to have rights of nature. I think a river should have rights. I do. Because we depend on that river. I mean, I used the eat out lagoon. Lived on it for many years.

Mike Haridopolos: yes, sir.

Jim Deroucher: it's sad now.

Blaise Trettis: A question on that. So, does your take on this that what I just read, we passed in 2021, that is a state law and you recognize it is a state law, and it's enforceable because it is law, but you believe eventually a court will strike it down?

Jim Deroucher: yeah, it was 2020.

Blaise Trettis: So, if what you ask us to do is to pass this proposal, you are asking us to pass proposal which violates state law.

Jim Deroucher: No, the proposal we presented to you is very, very different than what they are talking about. The statement granting a right to a river or animal or some kind of natural system. What we are talking about is granting the rights of people to clean water and a healthy eco-system. Very different.

Blaise Trettis: It reads that not a person or political subdivision or grant such person or political subdivision any specific rights relating to the natural environment. So, it applies to people. It doesn't only apply to the rights of a body of water. It gives a person the abilities to sue businesses that pollute. Your proposal does that. This statute prevents that. Don't you agree?

Jim Deroucher: There is a grey area there. I think that is the highlight of the unconstitutional part of that bill.

Blaise Trettis: Well part of the constitution is a county charter cannot be inconsistent with state general law. That is part of the constitution. This is 100% inconsistent it. I have no other questions.

Mike Haridopolos: Mr. Nye.

Matt Nye: I want to go on record that appeared before commissioner Fisher back in the day about the tax increases and say I think the way you characterized it was maybe oversimplified and also wanted to remind the commissioner -- former commissioner that we do have a lagoon tax, so the residents of Brevard county do have some concern about the environment.

Jim Deroucher: They certainly do. that was amazing passing that. and this would be the extra tool they need for soil to get this over the edge and bring the lagoon back.

Mike Haridopolos: Who are they suing in Orange county? You mentioned one company.

Jim Deroucher: it is a developer that wants to drain 115 acres, I believe, of wetlands and affect two streams and two lakes. And so, it's a development -- he wants to put in commercial -- homes, commercial, apartments, all kinds of stuff. 1900 acres he wants to develop and it is -- you know, it's mostly wetlands. A lot of it is.

Mike Haridopolos: And that lawsuit is holding up any development from taking place?

Jim Deroucher: Certainly, is right now. Until the judge makes a ruling.

Mike Haridopolos: Thanks for the good information. Thank you, sir. >>

Jim Deroucher: Sure, thank you very much.

Matt Nye: Can I make a motion now?

Mike Haridopolos: I want to -- I want to make sure everyone gets to the testimony and then we can go to motions. I want to make sure all the information is brought forward before we make any decisions. That okay with you? Warren Edwards from Viera. Welcome, Mr. Edwards.

Dr. Warren Edwards: Actually, Doctor Edwards. I'm Doctor Warren Edwards, a dentist in Viera here. I'm passionate about water in a lot of ways. I'm a biological dentist and trained as naturopath and I have done work on toxicity which affects the human body and the toxicity that exists all around us, and I'm also an avid water person. I own a sailboat and I have sailed every body of water from Ponce Inlet to Stewart on my little boat from here and there. And I'm a kayaker and bicycler along the river. There is no worse smell along the river when it is funky. We all live here. I see things happening that development is going strong and it's just taxes the whole system. I think that the importance of clean water can't be understated for us from a health standpoint, as well as health of the animals, and the planta, you know, so things like the removal of glyphosate, a ban on it -- which some counties and cities have been doing -- stopping, using that as an herbicide for our weeds, our aquatic weeds is poisoning us. It is poisoning the whole eco-system. So, that is one thing. I support the right to clean water. I'm not here to debate it from legal standpoint. And I'd be happy to answer any questions.

Mike Haridopolos; thank you, Doctor Edwards. Any questions? Seeing none, thanks for taking the time to visit with us. We have Bill Debusk from West Melbourne.

Bill Debusk: Hello, I am Bill Debusk from West Melbourne. I would like to talk about the right to clean water. That's what's going on right now. That is what is going on. We're letting that happen. Nutrients from bio solids being dumped are flowing into our drinking water source. Lake Washington, various sources of contaminants are flowing into the lagoon where we fish and swim and boat. The Florida air and water pollution control act under that act the state has issued over 23,000 pollution permits over the last 50 years, but these permits in some cases should have never been allowed because of the damage they do to our waterway. You may assume the citizens and organizations have the right today stop toxins from being dumped into our water, but we don't. We do not, as long as that company or industry or business is acting in accordance with the permit they were provided. Even if they are dumping waste water or bio-solids, if it is within the permit they cannot be sued in anyway. There is overwhelming proof that pollution permits are being issued without enough information, without the information that they are harming our environment beyond what they think they are. One of the most current examples is dumping a bio solid around cypress lake. Dumping of bio solids there resulted in algae plume, huge fish kill off. And today the same nutrients from that lake have flowed up the Saint Johns river into lake Washington and now we have this ever- occurring plumes of blue algae it is toxic blue algae bloom that is are very dangerous to humans. There are legal permits that allow that bi-solid to be dumped. It is allowed, it is legal. It is not right because it is causing Melbourne drinking water to have toxins from blue algae in it essentially. So, January of this year, Brevard county health department issued a warning for lake Washington and that warning said, "do not drink, swim, wade, use personal water craft, water, ski, boat in the waters where there is a visible bloom". " they know it is harmful to humans. That came from dumping via permit. It should have never been allowed. The right to clean water would allow a legal path to stop activities that irresponsibly degrade our waterways, infringe on the right of citizens in our county. Citizens must have the right to step in and stop polluters from destroying our waterways. We must be empowered to stop these kinds of things. Our citizens must have the right to clean water.

Mike Haridopolos: Okay, well thank you Mr. Debusk. Are there any questions? One thing I'd ask is -- only because you brought the example, I am curious to your answer. You mentioned a company got approval to put a certain thing into the water.

Jim Debusk. Yes, to dump bio solids.

Mike Haridopolos: Do you think we would we have the right, us figuratively to sue if what they did was legal?

Bill Debusk: Yes, absolutely, because they were issued a permit doesn't make it the right.

Mike Haridopolos: But it is -- I understand your point, but there are different eyes beholding that right. But if a company asked the government, is this legal or not, and the government says it's legal, you're allowed to do this, you still think they could be sued for that?

Bill Debusk: I think someone needs to take a look at it because it is -- like I tried to paint the picture that even because it is legal, and they got the permit from the Florida Department of Environmental Protection -- maybe they're underfunded. I don't know how they issue these permits and allow this to happen. It impacted our drinking water. It literally impacted the drinking water of Melbourne and we have no way to step in. And everybody says well if DEP says it is okay, it is legal, I guess they can do it. Bp said it was okay, but in the end, it is probably not okay.

Mike Haridopolos: would you sue the government or would you sue the company that got the okay from the government?

Bill Debusk: Whoever gave --

Mike Haridopolos: I'm just trying to understand what you're trying to get

Bill Debusk: I am not a lawyer, but I would search out for the -- whoever gave the permit
Mike Haridopolos: So, the individual government worker you want to sue?

Bill Debusk: the entity. Brevard county commissioners.

Mike Haridopolos: So, if the county gets sued, taxpayers have to pay the penalty? Is that what you are saying?

Bill Debusk: I'm not concerned about the penalty. I'm trying to find a way to stop it from occurring.

Mike Haridopolos: I am just trying to follow the logic. I hear you.

Bill Debusk: But if it is happening -- if some guy has throwing sewage in your water, like, hey, stop that. He's standing on his land doing it. I'm drinking the water. How do I stop that guy from doing that? I know down south -- the reason why it was dumped up here is because they stopped the dumping in south Florida because they saw that it was impeding the health of their water so they said okay, I can't dump down there, I will dump up here so they do it in Brevard county. So, I think we need a way to stop that type of pollution. Just an example. Good question.

Mike Haridopolos: Thank you sir, m just I am trying to understand, like you are. Laura lee Thompson from Mims. Welcome back.

Laurilee Thompson: I appreciate the opportunity to come back. I spent a magical morning this morning at -- looking at his sea grass growing operation. I'm happy the report we are forming a group up of five individual entities that are going to do serious work on trying to grow sea grass to put back into the lagoon. On my way home, I rode up A1A because I had a couple hours to kill. I hadn't done that in several decades. As I came north, I was shocked at how little public access to the beach there is south of Brevard county. Once I got to Brevard county we have all kinds of beach access and we have all kind of access to the river and that's thanks to our past leadership in the county. And I want to address the taxing issue. I think Brevard county voters have proven time and time again they are willing to tax themselves to clean up the environment. And it's really too bad that Commissioner Fisher was not able to get that infrastructure tax in place, but he was voted

out by other county commissioners. So, we haven't had the leadership on our county commission to try to address these issues. So, in the case of blue-green algae and bio solid dumping, the lawsuit would be against Florida DEP itself to get them to stop issuing these kinds of permits that are damaging Florida's water bodies all over the state. You know, we are worried about Brevard county. None of us are lawyers. We can't really answer your questions. Michael's original request that started this off was to ask your permission to include our lawyers at the next charter meeting so that they can address your questions because we just we are not lawyers.

Mike Haridopolos: I would just say this. whatever questions we might have we'd be happy to entertain their answers. If the lawyers want to come, that would be fine. I wouldn't make it big spectacle. It will happen tonight or the next meeting, whatever questions the commissioners may have it would be great to have an expert to walk into more detail.

Laurilee Thompson: since we don't know what your questions are, they may waste their three minutes talking about something that is not going to answer your questions. >>

Mike Haridopolos: I think there's been a bunch of questions already asked in this meeting and the previous meeting, so I would take those under consideration. I think the biggest concern a lot of people have is about -- has been about who ultimately pays the cost. I mean, as you know, I think one of the things I'm hearing -- just reverberations up here are if the government loses a case whether it be DEP or someone else, someone is going to have to pay for it and there will either be a new tax or fee or money spent on education or health care or roads maneuvered to this column to cover this lawsuit. We call it the water balloon. You squeeze in one area, and so forth. I don't think there will be any objection from us to have your lawyers here and as long as they are willing to ask and answer questions that would be fine.

Laurilee Thompson: And if they can't come in person, could they do it by zoom? Is it possible? Could that be set up? >> (off mic).

Laurilee Thompson: I agree.

Mike Haridopolos: then -- again, we have been really consistent with this. This must be our sixth or seventh meeting and if it was allowed to be zoomed in, then every proposal might say they want to have the ability have a zoom situation and we might be here for months, so I have to be careful of that, too. And they already are making many buy pizzas tonight, so I don't want to be taxed. Any other comments. I answered your question any other comments?

Laurilee Thompson: I do want to comment on the Titusville sewer spill. City of Titusville, the only lawsuit that would happen would be from a concerned citizen. All we wanted this to do when they had the water drawn down in the ponds was to de-muck the ponds and take the raw sewage that was sitting on the bottom of those ponds out before they allowed to fill the ponds back up with water, and they refused to do it. >>

Robin Fisher: Let me ask you something. They refused to do it? What were they required to do by the government agency?

Laurilee Thompson: They did get a lot of requirements from DEP and the angst is that we feel that some of the dates in DEP's report that said that the source spills stopped on December 19 or 23rd are wrong. So, we have heartburn over that. They did get multiple page document of things they have to do to correct the situation, but eye sore that still exists when you drive up us1 and look at the ponds when they have green, dying duck weeds all over them because they are so full of nutrients, that is what is rubbing everybody. >>

Robin Fisher: And this is my problem. I remember whatever storm it was and you could see a lot of exposed sewer lines on Riverside drive. And everyone knows those lines need replaced. But, the city has to take the initiative to replace those lines and people have to be willing to tax their selves to that.

Laurilee Thompson: But how do you know that people aren't willing, they voted time and time again to tax themselves. Brevard County is the only County out of a County Region in the Indian River Lagoon National Estuary Program, we are the only one that voted to tax ourselves to clean up the River. And if the elected officials don't even have the courage to propose a tax increase, a small five or ten dollars a household just to rake up some money to do these infrastructure changes, you will never know. It gets right from that dais right there. Like, no, I have said I wasn't going to raise taxes if I got elected and I am not raising your taxes, even though poop is going in the lagoon.

Robin Fisher: But being in this dais I have also seen the audience when an issue comes up an it is not always let's tax myself. It is a lot of time is I pay enough taxes and it is high enough and I am not going to pay anymore and you need to cut here and cut here

Laurilee Thompson: You're hearing from the minority that doesn't want to pay taxes, but there are a lot of us that would pay more to get this infrastructure fixed and we are doing it already with the half penny sales tax.

Robin Fisher: I was a big supporter of the half cent sales tax (off mic)

Cole Oliver: I have the greatest respect for Laurilee. The fight she puts up for the lagoon and community. The county is lucky to have her doing what she does for us. In respect to your question on how can your attorneys can be prepared to address the concerns we have in the three minutes, I wanted to go ahead to put my concerns out here with the proposal as drafted now.

Laurilee Thompson: are you writing this down please?

Cole Oliver: First is, I think it needs to be clear whom can be the target of these suits? Is it governmental entities only, private individuals? If a private individual comes in, get a permit from the county or state or whomever, and they go about their activity thinking they are in compliance with the law, they are hit with lawsuit. That is a concern to me because they have no idea, no or ability to prepare for that. So, I'd like clarity on that. And then probably this is more of a question for our attorney and yours as well, do we have the

authority to put in a law that can supersede FDEP . My concerns with the bio-solids, my understanding is that is being applied through FDEP permit.

Laurilee Thompson: It is.

Cole Oliver: So, do we even have the authority to tell FDEP your permit is not authorized in Brevard County, you can't apply it here. I don't know the answer to it, I think it is a valid question to be had. So, that is one of the things I would like to have some more information on. And then again, my concerns on the unintended consequences of the fee shifting provisions -- I spent time in the federal court system. We were overwhelmed with ADA lawsuits and fair labor wage lawsuits and usually the parties of those lawsuits were really getting very deminimus funds, and at the end of the day they were all driven by the attorney's fees and costs. And that ended up driving litigation and these attorneys bringing these relatively minor suits in but spending hundreds of hours litigating them. That is not a question for your attorneys, that is just a concern I have with the language as drafted and it is a "shall" instead of a "may. " you know, if it was a "may be able to recover costs," and under egregious circumstances, I could probably get behind it, but as of now, I have real concerns with it. That said, I'm in support of hearing more on this next hearing. I don't know what the rest of the eleven here tonight will say, but again thank you for what you do for this county and this lagoon. Please keep it up.

Laurilee Thompson: Thank you Mr. Oliver.

Mike Haridopolos: Mr. Nye for a question.

Matt Nye: So, I had mentioned this last time, and now maybe since we are talking about having your attorney's come they can walk understanding is this would give the individual standing to challenge in the situation where it appears to be pollution or damage to the environment, and I specifically asked last time, could it be an agency where they are treating wild life in a particular fashion that is contrary to nature. If you could show the cause and effect of a way a species is being treated and it is damaging to the environment, you are saying this would give somebody standing to challenge the government agency, right? that is managing the species. So, it could be Florida wildlife or the Federal, um I used to do their phone systems for heaven sakes, but you get my point. What I'm trying to walk through is, like? And who would be the arbiter? Because you say this species is being damaged in this fashion, and it is causing damage to the lagoon. Who is the arbiter. You are asking the agency in this similar concept to what you are describing you are asking the agency that is managing that particular species or whatever to, I'm just are you tracking with me it an all or...

Laurilee Thompson: I am not quite sure. I mean, this has to deal with water, so I'm not sure where you're going with the wildlife angle, Mr. Nye.

Matt Nye: I hope your attorneys come, I guess and I will try to more coherently ask my question.

Laurilee Thompson: I'm not sure -- I mean, with the wildlife you have the endangered species act and you can deal with EPA and -- so I'm not sure

Matt Nye: That's what I'm after. If you could show a causal relationship between the fact that a particular species is being treated in a fashion by a government agency that is directly resulting in damage to whatever body of water, this would give -- that would open up the ability for a citizen or group to challenge that federal agency or the state agency over the -- that is what I'm after.

Laurilee Thompson: The treatment of the animal

Matt Nye: Is that consistent with what you're proposing?

Laurilee Thompson: I suppose so.

Matt Nye: Same thing like the chairman here, I'm trying to wrap my head around it all.

Mike Haridopolos: Well, thank you. Ms. Thompson, it was great to see you. I am sorry, Ms. Schmitt for a question. (off mic).

Sue Schmitt: I just wanted to say, I have some of the same concerns that Mr. Oliver has and I mean, I love Laurilee. She has the best food in North Brevard. I know I will hear from other restaurants on that. I really have some very big concerns as far as you who can sue, and to explain from maybe your attorneys where you're looking at that, because seems to me in reading what we have so far that it is very loose and the taxpayers are going to pay big time and I think that's something we have to look at.

Laurilee Thompson: Okay. I may be out of line but it is my impression that this is a template that you guys can massage and work with. Our goal is that it is obvious that the b map and other pollution regulations that the state agencies have in place are not adequate to protect our water. The water continues to degrade. And our fisheries are gone, our sea grass is gone. There is a lot of lakes and rivers that it is unsafe for people to recreate in. It is a threat to Florida's tourism industry. And we're powerless to do anything. Therein lies our frustration and hopefully we can work something out. I mean, if you don't like the way it is worded now, maybe you can figure out a better way to word it to achieve the goal of the people being -- having some kind of way to force the state agencies to do a better job of controlling the pollution.

Sue Schmitt: Have you ever tried to force a state agency to do a better job?

Laurilee Thompson: I do it all the time.

Mike Haridopolos: Thank you again Ms. Thompson, it is great to see you. All right we have Kristen, I think it says Lortie.

Kristen Lortie: Good evening, Kristen Lortie, Cocoa resident. Surprise speaker tonight. I didn't realize I was going to talk. I was listening to the discussion. I'm very interested in it. I watched the last meeting and I found it very interesting, and I am finding myself having some opinions on this issue. And answering some of questions that are coming up. And what I'm seeing is that one, I would really like to make pollution unpopular in Brevard county. What this measure does, and Mr. Deroucher was very helpful for me. It seems to bring the power back to the citizens because we have all these -- we have these agencies that may not be doing the job that we need them to do in focusing our efforts of

on Brevard county, but it is bringing activity back to the citizens. If the citizens are initiating action waiting action, they are the ones initiating action, they are not going to do that for a really willy nilly, I don't think. You're going to get a lawyer, figure it out, take the action. In this country things are decided in the courts by action, and we don't have enough action being taken by our state agencies. So, whether it's the state agency is the one that is sued, the polluter that is sued or the taxpayer that pays because I would like to speak for a moment about Mr. Fisher and the payment of this and taxpayers don't want taxes. I'm taxpayer. I don't want unreasonable taxes. And I see a lot of things where I live, where I feel that the taxation is unreasonable, and I am actually going to find out what it is I am petitioning against. Let's take the Titusville and sewage and lack of paying for that infrastructure. If the discussion is brought into the court and it is determined that Titusville needs to do x, y, z, as the taxpayer, whether it happens in Titusville or Cocoa where I live, I will feel better about it because both sides got to talk, they hashed it out. Somebody is polluting. Somebody needs to stop polluting. Somebody needs to pay for that. If my taxes have to go up to pay for that, I am willing to do that. I see this as a positive. I really like it is not getting litigated regularly. This is something that's come up once, and that holstered in the -- the sheriff and the holster of our agencies are hesitant. They don't want to bring these measures up. Our commissioners don't want to bring these measures up. But, if you have this extra option that citizens have to bring it forward, I think it should be considered. I'll be very discouraged if you vote not to move this forward. I think it is a reasonable proposal and I think it will work its way through and the gray areas about the legal, they'll be cleared up in time. I don't think we should say, well, because the state believes this, at the local level we'll let that make our decision for us. Thank you for listening to my comment.

Mike Haridopolos: Thank you Ms. Lortie. Any questions? That concludes the public cards I have in front of me. Is there some discussion on the issue whether to continue to move forward or not? Mr. Trettis.

Blaise Trettis: I'll just reiterate that the Florida legislature in 2020 this was specifically addressed the situation response to what Orange county was doing and I already read the law that was passed in 2020 and it prevents a person or political subdivision from suing in court to enforce rights of water, a body of water – I'll just read it again "a local government regulation, ordinance, codes, rule, comprehensive plan, charter or any other provision of law may not recognize or grant any legal right to a plant, animal, body of water or any other part of natural environment that is not a person or political subdivision as defined in section 1018 or grant such a person or political subdivision them any rights relating to natural environment not otherwise authorized in general law or granted in state constitution." So, this specifically says a person shall not have any right to sue in court other than what is allowed by general law, state law or state constitution. I did research and I found the article from Florida Phoenix. A publication on what happens in government. "associated industries of Florida, a coalition of lobbyists endorsed the measure, saying it addresses water quality and protects Florida businesses from lawsuits by defining people can't sue on behalf of inanimate objects, like rivers, lakes, streams, et cetera. That latter provision shields businesses from being sued over rights of nature, a movement attempting to assign legal rights to natural resources such as waterways. " so,

it's clear to me that this law was specifically passed to prevent a charter government in the county charter from giving a person a right to sue businesses and government and that is exactly what this proposal does. It's preempted by state law. It is clear. It is just the law. We can't as a commission say let's see what happens. First of all, it would violate our duty to not only pass proposals which are not inconsistent with state law and the constitutions. It is not a matter of personal preference. I think everyone here wants clean water, but I am not willing to, I don't want to move forward on the proposal that violates specifically state law which was passed specifically to prevent a charter commission like this from passing a proposal like this. So, for those reasons I would make a motion that the Commission withdraw proposal 8, Right to Clean Water for further consideration.

Mike Haridopolos: Okay, other comments on this? There is a motion on the floor, but obviously we are going to have debate on that motion. So, is there comments about this motion?

Sue Schmitt: He said proposal 8.

Mike Haridopolos: He meant 6

Blaise Trettis: I meant proposal 6.

Mike Haridopolos: Comments anyone? Mr. Fisher.

Robin Fisher: My comment is, I am okay moving it to the next meeting, but I think we ought to ask our attorney to look at what Blaise brings up and they need to have their attorney here to answer the legal questions we have concerning it.

Mike Haridopolos: Sure, we can do that other comments. Only thing I would say -- I mean, I really have major concerns. I think everybody else brought up the proposals of why, but there is a place call the legislature and I lived there for a long time and whether it be net ban or cruise boats and they are dumping things in our water. When people were concerned, they acted. Same thing happened in Brevard county. Half a billion dollars will be spent to attempt to clean up waterways. I find it interesting that when people don't like how democracy is working and they want to go to the courts to get around democracy, but on the other end they want democracy because it is not working for them in the courts. So, I just think this is best of intentions. I know we need ten votes to pass along to the commission. One, I want to hear the arguments. I'll let it pass for this week. I'll vote to keep it alive for this week because I think their lawyer has maybe some good points we are missing, but as Mr. Fisher and Ms. Schmitt and Mr. Trettis and Mr. Oliver brought up, there is a lot of vagueness to this, and the last thing I want to do is move something that's not completely clear. And so, I highly recommend your lawyer be here next time because there is a lot of unintended potential here. When you talk about making it easier for lawsuits, I think a lot of concerns could be highlighted. The clenching reason for my opinion on this is Mr. Oliver lives in this world very much. With the water management districts. He has expertise in this. When he is not clear on what's kind of moving down the pike, you're going to see me back his opinion very much so. Mr. Trettis

Blaise Trettis: I am a rules guy. Roberts rules of Order provides that a motion, if it is not seconded, is defeated. If there is not a second, then – I am wondering, is there a second?

Mike Haridopolos: Is there a second? We'll let this go to next time. I think we made the message clear. I would put a lot more clarity because if you are asking us to do it, Ms. Thompson for us and others to do it for you, we are not going to be able to do it. You guys are the experts and this is well beyond our field and the theory of unintended consequences is smack in the face here. Duplicity on the I want democracy sometimes, I want the courts sometimes is also causing me a lot of heart burn. I do want, Mr. Gougelman -- you'll look at Mr. Trettis' concerns -- even though some people might think it will be struck down later, this is the law of today and I am going to live by it. I can't tell a police officer hey -- I am not going to go there. Okay with that, number six is moving forward.

Proposal 7 -Repeal Article 8 and Section 8.1-Public Hearing 2

Number seven, repeal by Mr. Trettis, Repeal Article 8 and Section 8.1. Mr. Trettis, you're recognized.

Blaise Trettis: Thank you. The proposal is to repeal from the charter Brevard Public Schools and specifically elections by single member residents area and districts. Florida statutes provide districts by two methods. One is if the Florida school board passes a resolution to place single member districts on the ballot and the voters approve for it, if that happens, then there are single member residence area elections for school board members. The other way is by petition drive. School board elections by Florida statute are district wide. County wide in which every voter gets to vote in every school board race unless those other two -- one of the other two options takes place which is a school board resolution and the voters pass it for a single member residence area or petition. So, there is no provision for charter amendment to create single member residence area school board elections, and I submit that the legislature has preempted this whole fields of single member district. As I said at the last meeting, it can be illustrated by the fact that we'll end up with different results if this were to remain in the charter. If this were to pass and the -- and then another charter hypothetically the way you can amend it, another proposal made hypothetically to go to single -- county wide elections and then school board were to pass resolution to go to single member elections, and all were to pass, then we'd have the voters voting for both single member districts and county wide district elections conflicting. And for those reasons, it was just an error that happened when the earlier charter commission put it in the charter and my proposal would repeal that error. That is all. Thank you.

Mike Haridopolos: Thank you Mr. Trettis, are there other questions? I have one appearance card. Pamela Castellano. She left. No other appearance cards. Do I have any objection to moving this forward to our third meeting? Seeing no objection, we are moving on to number eight.

Proposal 8 Vacancies and Suspensions-Public Hearing 2

Mike Haridopolos: That is by Mr. Burns, dealing with vacancies and suspensions. Mr. Burns, you're recognized.

Robert Burns: I will be brief. Other than what I have already spoke about before, I think I want to emphasize the necessity of this proposal, although it won't affect our current situation, I think we are two months in since we lost a seat figurative and literally, and we still have no idea of if and when the seat will be filled by appointment by Governor DeSantis. I don't think that is fair to our voters that have no representation at this time. One part of the proposal that I have not spoken on, but it is in the proposal is in the instance there is not enough time to have a special election for logistical purposes, that we do have an appointment, but the appointment is by the Board of County Commissioners, much like they appoint many members to any other county board. That way, we still have a transparent process, that way people know who has applied for the position, anyone can apply for the position. There can be some kind of debate and discussion about it. It could be as opposed to what we have right now is a non-transparent issue with no communication of if/when or ever this seat will be filled. The other part I wanted to emphasize is, if we didn't have the time for a special election, then we would have it filled by appointment. The appointment would be by the Board of County Commissioners, not by the Governor.

Mike Haridopolos: Okay great. Any questions for Mr. Burns? Does this mean you want this to move forward or not? Anybody have an opinion? All right, so we will move that forward to its next reading. I also have been informed, it looks like a Marcus Hochman wanted to speak on the last proposal. I am sorry sir, you were in the wrong pile. Come on in. And you want to speak on Mr. Trettis repeal Article 8 Section 8.1?

Back to Proposal 7- Repeal Article 8 Section 8.1 of the Charter- Public Hearing 2

Marcus Hochman: It will be really short. By the way, I like how the process goes here. It is very good. To me, this is how a government should look like. Great job community members, and everybody here. First of all, I like the idea of five board members representing their residency area. They would represent their communities because they are invested in their community directly. Now the question I have, and I have looked at this a few times, and I am not quite understanding this part in this proposal. I do not understand why the mask and LGBTQ has to do with this proposal. Because no matter if you have five single residency districts, or at large bids, it will still determine these policies based on state and federal laws to determine what the laws will be. So, I just wanted some clarification on that because when I was reading it there was an LGBTQ guideline, when I was reading on the website as part of proposal 7, and I was confused on that. So, I just wanted some clarification because I didn't understand.

Mike Haridopolos: Sure.

Blaise Trettis: I think I can try to answer that.

Mark Hochman: Thank you.

Blaise Trettis: You are welcome. If this proposal passes, and the school board between now and whenever something is required to get on the ballot, I don't know what that date is by the Supervisor of Elections, but if the school board does not pass a resolution to

have single member elections by residence are put on the ballot, then the elections will be district wide, county wide meaning you will be able to vote, I would be able to vote in every school board election in Brevard County. I personally favor that. And that is the only point I was making because it allows a person to vote in every race. So, if there is a school board member you would particularly like out of office, you will be able to vote for him, that was my point. The proposal itself doesn't make that happen because the school board could pass a resolution for single member elections by residence area, but they haven't yet, and if they don't and this passes that would be the result.

Marcus Hochman: So, the LGBTQ guidelines has nothing to do with that, that is what I want to make sure

Blaise Trettis: No school board member to my knowledge has tried anything to try to repeal the transgender policy of Brevard Public Schools. To me it would be a reason to vote them out of office because they haven't done that. I would have the opportunity to do that in every school board race in Brevard County.

Marcus Hochman: Any kind of policy? that was my point. any kind of policy.

Blaise Trettis: It could be any type of policy that somebody disagreed with any reason, correct.

Marcus Hochman: I wanted clarification on it before I disagree or agree, that's all.

Mike Haridopolos: any further comments, or are you good. Okay.

Sue Schmitt: You know, we keep talking about single member district and the school board and Mr. Gougelman had said section 8 and 8.1 are not legal in the charter based on court cases in Florida law. And I was wondering if it wouldn't be prudent since Blaise brought up the fact that if they haven't put it or on these school board agenda, to put on the referendum, if it wouldn't be prudent for us to have Mr. Gougelman to contact the school board if they are willing to place on the ballot the single member districts since it seems to be such a question, and whatever their comment is that would be it, and then we could deal with it.

Marie Rogerson: They discussed that at their meeting on Tuesday. They are looking into it. They asked their attorney to look into that,

Sue Schmitt: That's good. I think it would be worthwhile for Mr. Gougelman to get with their attorney or get with their Superintendent to find out what they propose to do.

Blaise Trettis: I would be opposed to asking Mr. Gougelman to do that. It is going way beyond the scope of the Charter Review Commission. What it does is "let's get involved in school board races because we apparently or someone apparently prefers single member districts by residence area. Which is the read I am getting from that input. Advise the school board to do this, and I am against that. That would be like taking opinions on do we want county wide or statewide. We shouldn't be doing that. Plus, they already know about it, they are looking at it. These are public meetings. So, I'd be opposed to the commission attorney getting involved in that manner.

Marc Hochman: can I go sit down? (laughter)

Mike Haridopolos: you're excused.

Kendall Moore: I would love for Mr. Hochman to stay for a second. I don't have a question for him, really a comment on what he raised. And Mr. Trettis, I didn't have a problem with the merit of all the legal issues that you raised in your memo. But Mr. Hochman proposed a question about the final few paragraphs, section five. And we are back to the policy again. Your concerns, you said specifically transgender, critical race theory, et al raised the policy related issues that drive you to want to change the Charter to deal with policy related issues. I just think it is the improper place, the improper protocol to do so. I will make the same motion Mr. Chairman that I made earlier that this particular proposal be removed from the list.

Blaise Trettis: Doesn't there have to be a motion Mr. Chair?

Kendall Moore: (cross talk) If I improperly stated his question, I apologize.

Mike Haridopolos: Get this man a slice of pizza. So, let me make sure we all know what we are kind of dealing with. Mr. Moore you basically want to see if we remove this whole idea? Number 7, right?

Kendall Moore: That is correct.

Mike Haridopolos: And on the basis you don't want to have the option? Give me the basis again so I understand

Kendall Moore: I don't know if I am necessarily required to provide a basis for the procedural motion, but Mr. Hochman raises a very valid point. The memo itself provided a number of technical issues that I think were proper and appropriate. Section five provides that Mr. Trettis's rationale is policy specific, that he is concerned with policies emanating from a political body and I think I was specific -- transgender, critical race theory and the like. I think there are numerous ways to address those amending the county's charter for the sake of a political purpose for political policy people which he included in his memo I think is an inappropriate reason and rationale to amend this charter. If there are not five other supporters, I'm happy to go the way the body goes, but wanted to raise that issue.

Mike Haridopolos: That is helpful.

Blaise Trettis: I will strike that from my proposal. I will strike it.

Kendall Moore: I am back to your Robert's Rules of Order: striking that doesn't change the motion. Your rationale and what you say -- that is what you put on the record. Your rationale for the proposal. -- illegal.

Mike Haridopolos: let's, so Ms. Schmitt, you second that? So, we are on debate. Because we do want to debate this before we vote on it. That is part of the Roberts Orders as well. Is there a comment because we are now debating whether to keep this as one of the proposals? Is there a debate besides Mr. Trettis? I'll let him go last because -- I will let Mr. Moore go last. Any other comments on this issue? The only thing I had a question about is -- maybe I have too many proposals in front of me, but I thought it was

going to be we are proposing that it be a county wide vote for all school board members an what you have said is it would be as a fallback if the school board does not proactivity say they want to do it by district. Is that correct? Mr. Trettis?

Blaise Trettis: Yes, that is correct.

Mike Haridopolos: The only thing I would say is the way I would want to see it where I would want to vote on it is to give the citizens a choice. Either county wide or district wide. All this other stuff is perfluous to me. The question is on the floor. Mr. Trettis if no one else wants to talk you're more than welcome to defend your position and we will vote whether to keep this proposal alive.

Blaise Trettis: This commentary and my proposal about the transgender policy is really extraneous. I'll be glad to strike it if I could. I guess there is objection to me doing that. Go ahead, get rid of it. That is not the reason for this proposal. The reason for the proposal is that it violates state law. And it is going to result, if it remains in the Charter it is going to result in contested school board elections. Because the looser is going to say, wait a minute, I was in a single member district election by residence area, which was illegally created by the county charter. That is why supervisor of elections did it that way for single member residence area. It is illegal. I should have had the opportunity for all the electors in Brevard county to vote for me. And the courts, I submit are going to rule in the favor of the loosing candidate. That is the reason for the proposal. Everything else is extraneous. About LGBTQ, go ahead strike it, get rid of it. That is not the reason for the proposal. And you don't agree with that, Mr. Moore. You said you agree with the legal analysis. If you want to strike it, you're saying I want to leave in the charter what you say unlawful. That is what you're saying. That is really what your proposal is. There is no more time to submit another proposal, so it is pretty serious. I take your proposal as that. I want to leave it in the charter knowing it was unlawfully done. That is all.

Mike Haridopolos: Mr. Moore.

Kendall Moore: Mr. Chairman, I will close by saying this. My statement is what it is, and Mr. Trettis can characterize it however he sees fit. I just lodged my specific objection and this body can decide whether they intend for it to remain on the list or not.

Mike Haridopolos: Thank you. let's call the roll. If you support Mr. Moore's push to remove this as a proposal, vote yes. If you do not support Mr. Moore's proposal vote no. If you please call the roll. >> (calling roll). >> (Voting Records attached to minutes) we are going to continue to have discussions on this issue. We are done now with number seven and we have already done number eight.

Proposal 9 Term of Office Public Hearing 1

Mike Haridopolos: We are now moving to number nine. And then -- proposal for Mr. Fisher on term of office. You're welcome to introduce this, Mr. Fisher.

Robin Fisher: I think I stated what last time -- to build the relationships you need to build to be effective at a job and I know that term limits are something voters have voted in. I respect that. I am not asking to get rid of term limits. I know we don't have term limits on

sheriff, clerk, property appraiser, tax collector, supervisor, election, school board members, U.S senate, US congress. You can go on and on. So, all my proposal is asking to do is for a county commissioner to not get rid of term limits, but give voters a chance to decide if they'd rather be three terms instead of two terms.

Mike Haridopolos: All right, we'll go into appearance cards and then debate at that point. Nick Tomboulides.

Nick Tomboulides: Thank you Mr. Chairman. I am getting Deja vu with this proposal because it was just a few years ago I was in the Jacksonville chambers listening the two politicians make the same arguments, that Jacksonville's eight- year voter approved term limits should be approached with a 12-year politician friendly term limit. I remember driving home that day thinking to myself, why are these two commissioners so adamant about getting rid of term limits? Why do they care so much about getting those extra four years in office? I was genuinely bewildered. I didn't have an answer. I got my answer seven months later when those two anti-term limit commissioners were indicted by the FBI in a criminal corruption conspiracy. They had been stealing millions of dollars from the city of Jacksonville and the reason they wanted the make term limits disappear, are reason they were so adamant about it is they never wanted that gravy train to stop. And so, for me, this was a cautionary tale that there is no good reason why any elected official, whether the President of the United States or local county commissioner needs more than eight years in office to get the job done. There may be self- serving reasons. There may be self- dealing reasons, but no legitimate reason why the commissioner can't act yes, sir to allow for a new voice, a new perspective to emerge every eight years. New voices, new ideas, that is not the essence of term limits. It is the essence of a republic. That is the essence of America. You know, we live in one of the wealthiest and most well-educated places in America. We have a population of 600,000 people and the underlying implication of this proposal is that in a county that wealthy, that educated, there are only five who are qualified to lead us as county commissioners? You know, we have such a vibrant population, diverse population. I'm absolutely confident that we can find a new generation of leaders to step up every eight years just as we have been able to do -- god bless you -- just like we have been able to do for the last 20 years. I forwarded the polling the all of you. The proposal is very unpopular. 82% of Brevard county residents oppose this proposal by a 2-1 margin. Bless you again. Believe that this is being done for the betterment of politicians, not the betterment of citizens in our county. And so, I would just suggest to you, let's kill this cancer of longer-term limits before it can metastasize. Eight is great and we need to shelve 12. Thank you.

Mike Haridopolos: Any questions. Next, we have Katy Delaney.

Katy Delaney: I am in agreement with the last speaker. I'm all for term limits. If it's good enough for the President of the United States, it should be good enough for the county commission. Thank you, respectfully.

Mike Haridopolos: any questions? There is no other appearance cards. Any comment?

Matt Nye: I would like to remove this from the docket.

Mike Haridopolos: All right do we have a second?

Blaise Trettis: Second.

Mike Haridopolos: let's debate this before we have a vote, whether to remove or not. Mr. Trettis in debate.

Blaise Trettis: I have two comments – I think the way this was worded would result in -- I believe there are two county commissioners now who are in the middle of their second term and I believe the way this is worded would result in those two having opportunity to serve five terms of office because charter amendments are not retroactive. They are prospective. So, it would not apply to their first term of office already served and wouldn't apply to a current term because a term of office is four years, not two years. So, it wouldn't apply to term of office they are in so they'd have three consecutive terms after their current term resulting in five terms. That is, I believe, what the result from the wording of this, you could word it definitely, but that is not the main reason I'm voting against it although it is an important one. More importantly, I think this should come -- a proposal like this needs to come from a county commissioner in office. They have the ability to get on the charter amendment to the ballot simply by their vote. They don't need to go through a year of meetings like we are doing. If a county commissioner believes it should be three terms and not two, then they need to make the proposal, not an appointee from county commissioner who is in office now. I think it is a matter of accountability in that regard. So, for those two reasons, I will vote to shelve it.

Mike Haridopolos: others in debate? Mr. Chandler.

Jordin Chandler: I will just say that I struggle with this particular proposal, number one being a young man, I don't necessarily agree with career politicians, but other than that, I think if an individual wants to serve more time in public office, would run for another office. I struggle with the proposal itself. Definitely do understand, Mr. Fisher, but just can't support it.

Mike Haridopolos: Others in debate.?

Blaise Trettis: I forgot one comment.

Mike Haridopolos: I think we know where you stand. Others in debate? Mr. Fisher, you are recognized.

Robin Fisher: I think that actually some people think it is automatic if you win your first term, you're going to win your second term and win your third and fourth term. We know it doesn't work that way. There are people that serve one term or two terms and I am asking to give the opportunity if they are doing a good job and if voters want them to serve a third term, voters should make the decision. There is no guarantee that just because you -- there is three terms on county commission, you get to serve all of them. We have seen one recently where that didn't happen. It is always up to the voter. They are going to get voted on every four years. I'd like to see it move forward.

Mike Haridopolos: Thank you. A motion is on the table with no other debate. Why don't we call the roll on this, if you agree with Mr. Nye on his motion to remove this from

consideration, vote yes. If you do not support Mr. Nye's motion to remove it, vote no. Please call the roll. (roll call). >> you want to vote no. >>) roll call). (See voting record) By your vote we are no longer considering number nine.

Proposal 10- 7.3.3 Supermajority for passage of Charter Amendments- Public Hearing 1

Mike Haridopolos: Ms. Rogerson, you are introduced to speak on Proposal 10.

Marie Rogerson: Thank you kindly. So, we have had a vibrant discussion about our own rules about what bars should be set when we make changes to the charter. And I think we had a solid consensus that there needed to be good reason to change the charter. As it stands, our county charter only requires simple majority to change the charter on the ballot and to bring it all into consistency, my proposal changes that to 60%. It mirrors Florida state statute. It is the wording from the state statute. It strikes nine words from our current charter and makes it 60%. There is a little in the Florida statute that tells us when the charter amendments become effective if it is not specified in the charter amendments.

Mike Haridopolos: Thank you. Other questions? There are no appearance cards. Any questions? Mr. Trettis.

Blaise Trettis: I have a suggestion. It is just that I agree with your proposal, and I believe Mr. Gougelman can confirm what I say, but charter amendments are effective the day they are approved by the voters and I think if it just ended at measure and deleted it shall be effective -- all these effective dates are very confusing people would be going to this and looking to me it is completely unnecessary. I would make that suggestion

Marie Rogerson: I couldn't find in the charter where it specified when the amendment -- when charter amendments become effective, so this was just literally, and I agree with you, the wording is confusing. It is the state statute. I stole it from there. >> (indiscernible)

Blaise Trettis: have effective dates, if that is what you're following. Then I understand. It is confusing and could be stricken, I suggest.

Marie Rogerson: It was the state statute talking about when amendments to our Florida constitution become effective. So, it is the way we do that at the state level.

Mike Haridopolos: We'll work on that. I think this is obviously going to move forward. Thank you for being consistent with our last vote too. I am a strong supporter of this, based on my history as well. Other comments on this proposal number 10. We'll look at that language. If you want to make adjustments, we can't work with Mr. Trettis unless it is public, but if we can work that through we'll try to find it where it is abundantly clear that in the future it would take 60% instead of 50 plus 1. Without objection, let's show that proposal moving forward.

Proposal 11- Change Name of Brevard County- Public Hearing 1

We have now number 11. Think that is Taye Smith. I believe I saw an email saying he would not be here for these proposals. And the requested action is to change the name

of Brevard County. There are no appearance cards for that. Does anyone have an opinion on this?

Sue Schmitt: I move that we get rid of this.

Marie Rogerson: Second.

Mike Haridopolos: We have a second. Does anyone want to debate on the issue?

Blaise Trettis: I would like to state something for the record. That is, I dispute Mr. Smith's actual statement that is part of the proposal that Theodore W of Brevard was a confederate comptroller. I looked, you can find things instantly now. That he was Florida Comptroller from 1855- 1860, and in 1854 and that was before the confederate, so he was not a confederate comptroller. And the only other thing I would like to put on the record is that he mentions that he was the Father of Brigadier General, Theodore of Brevard, and that is true. And Theodore of Brevard was, he went to Brigadier General with the Confederate Army, but I don't think that his son should be part of a criticism of the father. I think the saying usually is, the sins of the father be cast upon the son, but this is the opposite. Although, I just want to get that for the record thank you.

Mike Haridopolos: All right, there was a motion and it was seconded by everyone? okay. By your vote, we are going to remove that consideration.

Proposal 12 -Amend Article 2 Legislative Branch- Public Hearing 1

We have number 12, Mr. Smith is also not here on this measure and this is to amend article 2, legislative branch to include an elected at large mayor of Brevard with increase of salary for commissioner, blah, blah, blah. Other -- do we have any comments on this measure since no one is here to have a card on it?

Sue Schmitt: I move that we remove this.

Mike Haridopolos: Ms. Schmitt moves that we move this consideration.

Matt Nye: Second.

Mike Haridopolos: Do we have any debate on this issue? do we have cards for this one? Seeing no debate, all those -- well, lack of action will show that -- all those who want to strike it from consideration say yea. Aye. All opposed say nay the proposal number 11 is now no longer under, 12 is no longer under consideration.

Proposal 13- Amend Article 3 Executive Branch- Public Hearing 1

Mike Haridopolos: Number 13, also by Mr. Smith, amend article 3, executive branch to define an elected at large mayor of Brevard County and county manager, given the fact I believe it is tied to the previous, Ms. Schmitt moves to remove this from consideration?

Sue Schmitt: Sure.

Mike Haridopolos: Without objection, Mr. Nye seconds that. All those in agreement of removing this say yea. Without objection, show that removed number 13.

Proposal 14- Section 5.2 Recall Public Hearing 1

Mike Haridopolos: Number 14, we are getting back to recall here. Amend this section to allow any elected official under chartered pursuant to section 4. 2 to be recalled.

Sue Schmitt: I am going to move that we remove it.

Mike Haridopolos: Do we have a second on that?

Blaise Trettis: Second.

Mike Haridopolos: Mr. Trettis, seconds that motion. Anybody want to speak in favor of Mr. Smith's idea? Seeing none, all those who approve removing it from consideration say yea. >> (off mic). There's a card for 14. Katie Delaney, I am sorry. Okay. All those who approve of removing it, say yea. Okay, so number -- all -- you're a nay. By your vote, that is removed from consideration.

Proposal 15- Section 7.4 Charter Review Public Hearing 1

Mike Haridopolos: Number 15 – Every four years. I know my opinions as well. we're going to be consistent with this. Ms. Schmitt is going to –

Sue Schmitt: I move to remove it.

Mike Haridopolos: Sure of course.

Gabriel Jacobs-Kierstein: I had a quick comment. I think this is a good idea and here is why. Things moving a lot faster since 1997 and I looked back and saw that in 2010, there were 54 proposals. We're here on 24, some of which have merit and some are easy to discard. This is a situation where you always have the option to change back to six, if this become irrelevant. But in the process, you are also having an opportunity for the public to make proposals and have more access to amending the charter and in addition to that, you are having more forum to debate that, both with the colleagues up here, the fellow commissioners and also the people who join us in the audience. While none of us want to be here for four hours a night, routinely, I wholeheartedly agree with that. I do think that every four- year idea has enough merit to go forward. Whether or not we approve it as a group or not is a different story. The only counter argument that I can see is the cost. I am not good at math, I am a lawyer, but 33% roughly is the amount it would cost extra to have there every four years instead of six. I think that is minimal compared to its too it's benefits. So, for those reasons, I think this should move forward and hopefully somebody will have some different perspective on it. That is, it.

Mike Haridopolos: Sure, any comments on that? We have a motion on the floor to remove this from consideration, but again, it is -- we can call the yeas an nays or people want to back the opinion of Mr. Jacobs-Kierstein. I'm okay with moving it forward. It is whatever ya'll want to do. >> I say move it to ten years. (laughter). Okay, the motion is on the table by Ms. Schmitt to remove from consideration. All those in agreement say yea.

All those opposed say nay. So, I guess we'll have to go to roll call. >> if you want to remove it vote yes. Correct? If you don't want to remove it, vote no start over again. >> (roll call)- (see attached voting record.) 7 yeas, so we are going to remove from consideration.

Proposal 16- Non-Partisan Election Public Hearing 1

Mike Haridopolos: Okay, we got one more for Mr. Smith. Item number 16. We have a proposal to remove from consideration and second. It was introduced by Mr. Nye and seconded by Mr. Trettis. Any conversation on this issue?

Kendall Moore: Just one question. (off mic) Have the elections under our charter ever been non- partisan?

Paul Gougelman: Under the original charter the elections were to be nonpartisan and the charter was subsequently amended to require partisan elections.

Kendall Moore: that was what year?

Paul Gougelman: in the 90s.

Kendall Moore: okay. That's it. I just like to get a chance to cheer to my good friends in the other party that just because there is more of you than us, maybe it should be a non-partisan election, rather than partisan.

Mike Haridopolos: Great point. All in favor of removing it from consideration say Yay. Opposed say nay. We got a roll call, I guess. So, if you want to remove this consideration vote yes. If you don't want to remove -- if you want to keep it, vote no. >> (roll call). >> by your vote the yeas have it and we removing it from consideration. (see voting records)

Proposal 17- Amending Section 2.4 Term Limits Public Hearing 1

Mike Haridopolos: Okay. We are now on number 17. And this is on term limits for county (indiscernible) you are recognized once again.

Nicolas Tomboulides: Thank you Mr. Chairman, I will be more brief this time this proposal is inspired by a resolution that was filed in congress a few years ago by then congressman, now Governor Ron DeSantis, to impose a lifetime term limit on congress. What this would do would strike the word consecutive from the term limit provision from the charter and create a lifetime term limit for county commissioners because one thing that many people in the community share with me is that they love the 8-year term limit but don't like the fact it is consecutive, because when it is consecutive you have the possibility for formerly termed out county commissioners to come back. They could run again. It is like we have this zombie politician issue. It would seal it up and create a lifetime term limit. The goal the to allow for innovative new ideas, new solutions to modern problems and I feel this amendment would help a come accomplish that and happy to answer any questions you have about it.

Mike Haridopolos: Any questions? All right, we have one appearance card. Katie Delaney Any -- you have an opinion on -- >> (off mic). >> okay. Questions, comments? No objection moving this forward? Seeing no objection, we'll move it forward.

Proposal 18-Section 5.2 Recall Public Hearing 1

Mike Haridopolos: Mr. Luebker is not here This is another issue on recall -- this is the issue where the county commissioner shall be subject to recall as provided FBI general law, any election -- are there questions on this issue?

Sue Schmitt: I belief Mr. Gougelman gave us some information and that it basically says that this particular item is not legal; am I correct?

Paul Gougelman: Let me tell you that it is a very, very close question of whether or not you could recall the constitutional officers. The charter as it is set up currently and has been set up since the early days, intends that you should be able to recall the constitutional officers. There was an amendment to the charter some years ago, changing the numbering and some of the systems, some of the sections and what Mr. Luebker is trying to do is correct the numbering problem.

Mike Haridopolos: The only thing I would say is he is not here. This is only hearing number one, correct? That if it is okay with the members, we could just let him have his day in court and make his opinion known next time. If that is okay with everyone. Okay. Without objection, we'll move that to the next meeting.

Proposal 19 Section Amend Section 5.2 Scrivener Error Public Hearing 1

Mike Haridopolos: Mr. Trettis, on number 19, on the error.

Blaise Trettis: My proposal is identical to Mr. Luebker's. There was a clerical error. I forget what year it was, so this would correct the clerical error from previous year.

Mike Haridopolos: Well, I guess we'll let this one slide to the next meeting as we take up in consideration. Let's move it forward for now and we'll take it up next time.

Proposal 20- Amend Article 7.4.1 Public Hearing 1

Mike Haridopolos: Number 20. Mr. Jacobs-Kierstein you are recognized.

Gabriel Jacobs Kierstein: There is concern as to the procedure that would be in place among other things, neutralizing any bias or back channeling by this panel, and then in addition, kind of how we'd go about curing any defects. I think this was the best way that I could come up with be, and I also conferred with Mr. Gougelman and thank you, for helping me with that and also giving us your expertise, I think it alleviates the issues this commission had about the panel, and it gives us the opportunity which is the most important aspect of it to cure any defects that we have with proposals we have approved as a group going forward, but it also still gives the panel an opportunity to let us know if something's not constitutional. I mean, we don't want to open ourselves up to lawsuits and litigation. We want to make sure what we are -- the language that we are proposing is indeed legal, but at the same time, it kind of sets out their very specific parameters, what they can do, and how they go about it and ultimately gives us the opportunity to not only cure any defects, but also to extend the time that this panel is, excuse me this commission is active to do so. For those reason, I think it is a good idea.

Mike Haridopolos: Mr. Trettis for a question.

Blaise Trettis: It is really a comment. My comment is that the proposal unlike mine on the three- attorney review panel, this one does not repeal the three-attorney review panel in charter sections 7.3.2 through 7.3. 3 which is the charter review by amendment process. So, this leaves the three-attorney review panel in that part of the charter. So, I don't think it is a good idea to be inconsistent like that. That doesn't change in the other part so that's one thing. And if know there was a revised language that came out and I'm not sure exactly what I am looking at, it may be the original language that includes that these three attorneys there was the look at ballot language. Was that removed?

Gabriel Jacobs-Kierstein: My understanding specifically was that they already do. If I misunderstood, then – I have no problem with that. I think it's -- the main issue was the amendments that we vote on.

Blaise Trettis: Okay, well, it doesn't include ballot review now -- I think would cause another big problem, quite frankly. I mean, and then to this proposal, would also extend - I think it would be impossible to work in the timeframe we are dealing with, like right now we haven't passed a single proposal and the earliest would be June 23 and then it goes to a three-attorney panel. I don't think there is enough time to get an answer from these three attorneys about how it could be corrected in their opinion corrected, we'd have to vote again on a new proposal because it would be a new proposal. This would require three public hearings because it would be a new proposal. This would put us way beyond the charter review commission and way past when the supervisor election needs, I guess in August. For all those reasons, I'm not in favor of the proposal.

Mike Haridopolos: Mr. Jacobs-Kierstein, maybe get some clarity on that. I think we had discussion last time where our goal was to get the second bite and I thought we'd looked at this procedure more as -- like we would do in the legislature, which is if there was concerns raised, we could adjust if we thought necessary. If you can get clarity that would be great.

Gabriel Jacobs-Kierstein: The last sentence to the new revised or amended proposal is not withstanding section 7.4 of this charter. The term of the charter review commission shall be extended for the soul purpose of further considering proposal rejected by three-person review panel. It is specific and it addresses the time limitations, so we'd still be active to. We are simply amending the language. I know the argument could be made that it is a new proposal, but we are not making a new proposal, we would simply just be trying to cure the defect that the panel says creates a constitutional issue.

Mike Haridopolos: That's the way I viewed it when we talked about its last time. If Mr. Trettis has concerns about it, it is something we can address in the next two meetings.

Gabriel Jacobs-Kierstein: sure. We can modify the language accordingly.

Mike Haridopolos: Mr. Moore.

Kendall Moore: I think it is a great proposal. I think Mr. Trettis has brought up concerns that had significant merit. One was the language consistency. There is some language that could be cleaned up in that particular section of the charter. The second issue Mr.

Trettis brought up earlier was his concern of the attorneys being hired by the county commission and this body and their fiduciary responsibility to us. I'd prefer that they be reporting to us. And I'm not concerned at all about the time. The time for this particular board we created by cancelling four of our meetings to get to this point, and so we certainly -- if this had been in place at this time we'd have time for the three-attorney panel review to take place. Certainly, think this proposal has merit, not in favor of waiving the three- attorney panel, but I do like the changes that have been proposed.

Mike Haridopolos: Other comments. Without objection, we are going to move forward with proposal 20 for our next meeting. All right, by the way. I had another card. Kerry Takacs, did you want to comment on number 18 or are you okay? Thanks. We are now on number 21.

Proposal 21-Amend Article 8 by adding 8.2 Public Hearing 1

Mike Haridopolos: We have some appearance cards, but I would like Mr. Nye to introduce his proposal on amending article 8.

Matt Nye: Sure. So obviously a lot of discussion around school board this cycle, and I was trying to come up with possible alternatives to the recall and some of these other things. So, I looked around the state and there are several counties that have elected Superintendents, so I thought this might be something just to put out into the public just for consideration. I know we have the question about the next one coming up about the single member versus at large. But the goal is to essentially make it where the superintendent is directly accountable to the voters so that he's got some skin in the game when it comes to some of these policies and things.

Mike Haridopolos: All right, we have a couple appearance cards on this. Marcus Hochman Welcome back. Okay, Katie Delaney and Kerry Takacs. Welcome back.

Marcus Hochman: I am curious about the proposal, but would like to hear more about how the superintendent can deflect ownership of various issues because those were issues because there were specific words in the proposal, especially when if the superintendent works at the board's direction, which could be potentially the 7,5,9 or whatever that could be. I'd like to know more about how they'd govern, how they'd vote? Specifically, would the superintendent have a vote on different policies and different things. If you had that, your future proposal 7 would have to be an even number. I'm curious about that.

Matt Nye: The intent would not be for him to vote.

Marcus Hochman: okay. That is, it.

Mike Haridopolos: We have Katie Delaney.

Katy Delaney: Just some clarification from what I understand. The Superintendent from what I understand does have a vote if there is not a quorum, from my understanding.

Matt Nye: I don't know if that is correct or wrong, but I didn't flush it out to that detail. I was just trying to come up with ways for people to have more input.

Katy Delaney: I think I read something like that, but I could be wrong. I'm in favor of this proposal. The superintendent, he deals with all operational aspects of our schools, and so he should be held accountable to the residents of Brevard county. And just a couple things that happened recently, that the superintendent had the soul choice of what to do is there was a dad who came to the school board meeting and he wanted to eat lunch with his child. He was told that parents are not allowed do that anymore because apparently, we are security risks and we can't be supervised. though there is cafeteria workers and teachers and all sorts of people in the cafeteria, we are the security risk now. And that is Doctor Mullins, his words. The way he is directing the schools and teachers and what not, if they are -- if the schools aren't performing in the way they should be, again, he should be held accountable to the people of Brevard county, the parents and the taxpayers because the way our kids get educated, it affects everyone. I'm all for this proposal. Thank you.

Mike Haridopolos: Kerry Takacs.

Kerry Takacs: I am here to speak in favor of it as well. We had a father come in and speak about having lunch with his daughter, he was told the parents are a security risk. I only moved here in 2019 after my husband retired from the service and one of the things I loved was that I could have lunch with my kids. I was there weekly. The kids love it. And that's been taken away. The superintendent can fix that, and he's chosen not to despite parents asking. I have also been watching school districts around the state. Pasco county has an elected superintendent and he is killing it. He is doing what the parents want. He is listening to everyone. He is taking his job -- he knows his job is on the line and that is accountability. We need that because when there aren't the voices of the people aren't heard, the voices of the students aren't heard. That is what we need to bring back. We need to rebuild the trust between the people and school district. Thank you.

Mike Haridopolos: Thank you. Any questions? No other appearance cards, is there comments on this issue? Ms. Rogerson.

Marie Rogerson: I'd like to say a couple things. I'm not necessarily speaking for or against this, but I'd like us to pause and consider that between this proposal and Mr. Trettis's other proposal, we could be adding somewhere between 6 and 10 people on to the ballot in a given year, which I don't know about most voters, but it takes a lot of work to be educated all the way up and down the ballot, so it's not necessarily a bad thing, but we are asking our voters to do a lot more homework and I think we have seen that if elections were our way of holding people accountable, we wouldn't have the problems we have already at our school board. By electing more people, I don't think that necessarily solves any problems.

Mike Haridopolos: Thank you, Mr. Trettis.

Blaise Trettis: I recommend we research this to see if it conflicts with state law. I haven't done any research myself. The research I did shows the legislature provided for how single member school board residence elections are created and on the next proposal Mr. Nye at large, I will speak to in a moment, the legislature has also spoke to how at

large members can be part of a school board member. So, I am just wondering if the Florida statutes provide for election of superintendent by a school board resolution, which is then voted on by the people for the petition process, basically the same scheme in the Florida statutes, so I would recommend that be done.

Matt Nye: (Inaudible) I did not do that research. I am not an attorney.

Mike Haridopolos: Mr. Oliver?

Cole Oliver: I am neither for or against at this point. I think this is worth looking into. I have a concern about having a person face the voters when they may be implementing policies when directed by the elected officials above them, and they don't have any real ability not to do that. So, I do have some concerns on that, but I would like to see how this flushes out, but that is just my two cents.

Mike Haridopolos: Mr. Fisher.

Robin Fisher: I have some concerns. I think about how everybody wants government to operate and run like a business, which is difficult to do. And I can't imagine you changing your CEO and your business every four years. The other issue would be I can't imagine being elected and not have the power to vote. If you have five board members, superintendents likely, you have six, you could end up if they have the power to vote you end up with 3-3 ties on a lot of issues. Those are concerns I have.

Mike Haridopolos: other thoughts? All right, is there objection to moving this forward? Okay, we'll move this forward until next time and get some of those questions answered. Thank you very much. We are moving forward with number 21.

Proposal 22- Revise Citizen Advisory Process- Public Hearing 1

Mike Haridopolos: Number 22 is also by Mr. Nye, citizen advisory process.

Matt Nye: So, this was mentioned at the last meeting by one of the speakers, the public comments, and right now in the charter we have the ability for citizens to make recommendations once a year and I have agreed with that speaker, that that wasn't frequently enough, so I propose to change it to twice a year.

Mike Haridopolos: Comments? Ms. Schmitt

Sue Schmitt: The problem, I guess that I have with this is that at every single county commission meeting, there are two places on their agenda for public comment. Anyone that wishes to be heard about anything they want to talk about, and they're given ample time, as you can see because our chairman is dealing with their timers and I think by -- plus they also have the opportunity once a year to submit proposals that the staff then reviews, goes through, looks at also the bottom-line of -- it's a financial, and that moves on then to the county commission also so you have at least every month except the month of June you have three times that the public can hear at meetings twice plus on any issue itself so I think this is not really a necessary or proper .

Robin Fisher: I second.

Mike Haridopolos: Okay, so we have a motion and second. We are debating the idea of moving forward or not. Any other opinions? Mr. Nye what is your pleasure? Oh, I am sorry, Mr. Trettis.

Blaise Trettis: I haven't looked at this closely, but my understanding of it is that this is for instances in which a citizen has tried to get a county commissioner to bring a matter before the commission and has been unsuccessful. And this is a way once a year now where that can happen because there is provision to allow it to happen and Mr. Nye's proposal is to allow that to happen twice a year instead of once; is that fair to say?

Matt Nye: That is correct.

Blaise Trettis: I don't think that twice a year is too much for direct access for people in those circumstances.

Mike Haridopolos: Other comments? We have an appearance card on this issue. Kristin Lori, you spoke earlier. Welcome back.

Kristen Lortie: Good evening, Kristen Lortie, Coco resident and I'm glad when I stepped out I didn't miss this one. I would like to support this. I want to support board member Nye in this. I'm someone, a citizen who has concerns, who brings things before councils, who uses the three minutes during the council meeting and it is simply not enough to really bring forward a proposal, an idea, something that you're thoughtfully wanting to bring before a commission. I supported this last time. I'm really glad you took the initiative to bring it up when the original petitioner did not bring it up again. I think that twice a year is not unreasonable and that citizens -- there are citizens that care about what is going on in our county that would like to have input, that would like to draft their own thoughts on it and it's much different -- to me it is much different than just having the right to three minutes to speak on a topic. It is really something that is more deliberative, and twice a year, I feel encouraged, I'd feel better as a resident of Brevard, knowing there was the opportunity to address the commissioners twice a year. Hard to believe, but our commissioners don't always want to hear from us as citizens. And so -- but as a citizen, I'd like to know what is going on and on other peoples' minds and I want to hear what they have presented and I look forward to those proposals. I want to support you Mr. Nye, in your putting this forward. Thank you.

Mike Haridopolos: All right, we are still on number 22. Any further comment on this issue? Any objection moving this forward for further discussion? Mr. Rob K do you have a strong opinion on this. We'll have a meeting next time.

Rob K: 2.910, Brevard charter 2.910. That. that's correct. The process also allows for -- sitting up here talking to county board of commissions, if you watched the last few meetings sit here and propose or say something, it is not their duty to respond, but this forces a response from my understanding. It will give them a yea or nay during that process to then see where their stance is twice a year is better than once a year. I am totally for this one. I think it is more transparent. It allows for more communication and language to be held at these types of things.

Mike Haridopolos: So, without objection, we'll move forward on that item for next time as well. Okay. So that was number 22.

Proposal 23- Amend Article 8 Section 8.1 to add 2 School Board Members-Public Hearing 1

Mike Haridopolos: Number 23, also by Mr. Nye, and that is amend the home rule charter to add two more school board members.

Matt Nye: That is correct. And I forgot to preface my comments earlier on the first with the addition of the superintendent. You know, I'm, like, Mr. Limited government so it's very interesting that I'm proposing adding payroll right to the new positions, but again, there was -- there's been so much discussion around the school board issues. This was another scenario I looked at. I know we have the issue that Mr. Trettis has already brought up about the single elections, but the end result would be five members elected from single member districts and two that are elected at large to try to achieve some of that balance that was mentioned or I don't know if the word balanced was use, but the ability for people from all over the county to have more input, so that's the logic. I do understand the issue. You know, if we somehow ended up with both the superintendent, now you have eight votes, so we can, again -- these are for discussion purposes. I just felt like this has been such a caustic session, I was trying to come up ways to get people more input on how this would work. >> thank you. We have a couple folks who want to speak. Marcus Hochman again after that, Katie Delaney.

Marcus Hochman: thank you, once again. Agree with what you were saying. I agree partly with having seven board members regarding the growing population. My question was would it be 5 and 2. The other thing I want to throw out there is to see if it sticks to anything. Has there been any talk about having one school board represent charter schools? And I'm from public schools, and I am a union member, but I also believe in choice and when we have school choice, you also need to have that representation. So that's

Matt Nye: There's not been, but I think that is a great idea.

Marcus Hochman: To have that added on to it or just looked at for discussion. I'd like to say parents have a choice, but when you have more parents and people want more choices for school, this and that, I think there needs to be representation also. Even though I might disagree with charter schools. But when it comes down to the constitution that we serve, we need to look at representation on that.

Mike Haridopolos: Next Katy Delaney

Katy Delaney: I went and checked that superintendents do have a vote when there's not a quorum. So that's how it is right now. But about this proposal, I'm not -I'm not in favor of adding more government officials to the rolls. Yeah. I'm not in favor of that but I did want to comment on the charter school. I don't know if that's possible because of their autonomy from the school district, because I have had my kids in charter school, and I have had issues choosing charter schools. I have tried to go to the school district with those issues, and they clearly state they have told me there is autonomy with discipline,

with all these different things, so I don't know how that would work because there are also private companies and such. Thank you.

Mike Haridopolos: Thank you Ms. Delaney. All right, we are now on the proposal. Are there other questions or comments on this idea of adding two school board members?

Blaise Trettis: I will read section 1001.34, I am just going to read the relevant part: "Each district school board shall be composed of not less than five members. A district school board may modify the number of members on its board by adopting a resolution that establishes the total numbers on the board, which may not be less than five, and the number of members whom shall be elected by residence area or elected at large. If the resolution is adopted the school board shall submit to the electors for approval at a referendum held at the next primary or general regular election. The number of school board members shall be modified in accordance with the resolution adopted by the school board." So, to me this is another example of legislative preemption.

Mike Haridopolos; Ms. Schmitt? I am sorry, Mr. Oliver. I am sorry.

Cole Oliver; I am not sure if it is 5 or 7 or 9 if it solves the problem by adding more people in there. If we are not getting the votes from some of the school board members on some of the policies that are there, does adding two more to the stew pot fix that problem? But I am open to the debate and hearing more about it.

Matt Nye: I think the logic was that if the two were elected county wide as opposed to single member districts might change the results so to speak.

Mike Haridopolos: Further debate? Is there any objection to moving this forward for further consideration next time?

Blaise Trettis: I ask that Mr. Gougelman give us his opinion on whether statute 1001.34 preempts this proposal?

Mike Haridopolos: Mr. Gougelman, we are giving you more work, congratulations!

Matt Nye: I have no desire to try to write that, no long-term aspirations that the statute will be overturned, so, all right, so we are moving forward with 23. All right.

Proposal 24- Addition of section 1.9 to Article 1 Establish Workforce Housing Trust Public Hearing 1

Mike Haridopolos: Our final consideration for tonight is by Jordin Chandler. The ad of section 1.9 to article 1 established workforce housing trust fund. You are recognized.

Jordin Chandler: Thank you, Mr. Chair. To give some historical context and background and insight to the crafting of this particular proposal, this is something I've been working on for approximately about seven months. And in the crafting of this proposal had the opportunity to speak with several, I'd say numerous, maybe 16 affordable housing organizations and experts here in Brevard county and throughout the state of Florida to get a better understanding of what the need is within our communities. My wife is here tonight so she can probably attest to all the time that I spent on this particular proposal. Also had the opportunity to speak to county staff to examine the current affordable

housing trust which was established by ordinance in 2007 in that current affordable housing trust fund, the current funding that is currently in there is what you call PILT funds, which is payment in lieu of taxes. To examine what is being allocated to that, which is the PILT funds, but also gather information from them that would -- also I've done my due diligence in reviewing how municipalities in Florida and the u relative to how we could enhance our efforts to establish a trust fund that will actually work for the people of Brevard County. I have also done my due diligence in research and reviewing how counties and municipalities in Florida and the US in general in general have addressed this critical need and more especially what funding sources they applied to make sure their trust fund was -- funded and sustainable to serve the purposes in which it was created. And then lastly, I might add also the commissioner who appointed me has made this process fruitful by giving me full support behind this initiative. So, the proposal that I submitted really looks to do a few things: number one, create a trust fund that focuses on workforce housing opportunities within Brevard. Mind you, these are the people who are the very backbone of our community. Right. They're teachers, first responders, government staff, individuals who work in hospitality and the tourism industry. All of which who play really an essential role in the development, the growth, the financial wellness, the safety and security of our community. Secondly, this proposal also focuses on the support of housing aspect. Those who are the least of the. Services designed to help stabilize people who face complex challenges. People like our veterans, for example. Individuals who go overseas and fight for our country but come home not to find a country fighting for them. This proposal also represents those thousands of students and families who currently live in poverty. If you don't believe me, I encourage you to look at the children's hunger project statistics. So, this proposal, this trust fund's purpose is to have a dedicated fund that is exclusively used for the purposes that it was created for it to be reoccurring and adequate enough to chip away addressing the critical need plaguing our county and our nation. I will close with saying this, Mr. Chair. As someone who is a young adult, I am pretty sure Ms. Rogerson can attest to this, I think about what I want my community to look like 20, 30 years from now. As cliché? It has might sound, I want it to be a great place to work, live and play but in this inflationary period we're in, and unfortunately, it's going to continue to get worse if we don't address the problem at hand. But that slogan that I just threw out to be will be a slogan of the past.

Mike Haridopolos: Thank you. We have a few appearance cards before we get in to debate up here. Robert, sorry, I still can't read your handwriting. Robert K from Melbourne. Thanks, Robert.

Robert Klimkowski: Good evening. Good evening to you, Mr. Chair and to the board. I am here to speak on this proposal. But the reason I am here is homelessness and the workforce housing crisis. The crisis has been hastened by inflationary spending or spending other people's money. So short of a voluntary fiscal budget system where we can completely eliminate extorting other people's money by eliminating federal and state funds which is backed by a Central Banking System called federal reserve. So, I will start off with little background information. In 1802, Thomas Jefferson proclaimed that if the American people allow private banks to control the issue of their currency first by inflation, the banks and corporations that will grow up around them will deprive the people of all

property until their children wake up homeless, on the Continent their fathers conquered. I think that's what we're dealing with right now. Simple points here. 1913 federal reserve act and income tax act -- tied our u.s. dollar to scarcity of gold was removed. 80's speculation and housing market, '90s and 2000, you kind of see the end of that, you might have seen the movie big short with Christian Bale. Housing bonds that ballooned the housing market to the point of recession. After that, you had a whole bunch of developers buy those to where we are now and it's not getting better. It's getting worse. We fast forward today. Blackstone is now the largest commercial landlord. I'd like to say thank you to Mr. Chandler for drafting this. Nobody is talking about this nobody is bringing up this issue and it needs to be brought up. To open up dialogue, discourse or discussion is the best thing to do. And the immediate issue at hand is homelessness and workforce housing. We have a disproportionate number of homeless -- which was narrowly viewed and as did not implement free speech measures. So, we have to deal with this. And in order to deal with this, this proposal sets up a trust. Allowing for the funding from the general fund, Brevard county has the opportunity to set up -- effective and sustainable revenue source for the immediate future. Now, like I said, I don't think that fed -- or other people's money should help. But instead of caging people, which is what we're doing right now, we're caging them for being on the streets, we have to do something. This proposal has been the only thing moved. Now with that, there comes a section with -- one more minute, please.

Mike Haridopolos: sure, go ahead.

Robert Krimkowski: With best practices. And according to the Florida Housing Coalition, they ranked an order the best practices according to the Florida community land initiative, it's the same best practice as first setting up a clean -- or a community land trust, then setting up a trust such as this one. So, a community land trust basically allows for Brevard county to own the land that it's subsidizing the housing on and lease out that land at a 99-year lease rate so that it can retain those subs subsidies. Say that I am a recipient of the subsidized housing or whatever case you're taking federal money or state money and giving it to me at a lower rate. I buy the house at \$150,000. But the market -- the language that's involved here, I would own the land and house at \$250,000 market value. Although I've only paid \$125,000 to \$150,000 because it was subsidized. If that's the case, Brevard county, when I saw that house -- they lose that subsidy. It could lead to unintended consequences. I think the provision under land trust beneficiaries Florida statute 689.071 states the land trust is not the same as a community land trust. They are similar but one actually allows for the fiduciary to be different.

Mike Haridopolos: I think you made your point. We hear you loud and clear. We need to let other folks come up with their three minutes. We have more bites of the apple if this moves forward. Ms. Castellano you are recognized

Pamela Castellano: Since I have 3 minutes and I won't take three minutes, thank you all for saying this when your county commissioner asked you to do this job. I haven't agreed with everything but I know it's taken your time and dedication and I have to say thank you. I have some questions for Mr. Chandler. First of all, I am so excited that you've decided to embrace this. This is such a huge issue affecting us, our entire country, especially

Brevard county. But I would like to see your proposal put in writing where the funding, you say in the email that you forwarded to the Brevard Justice League, that it would -- funding would be required. But I would like to see that. How much money is in our current trust fund so we know the money is going to go to our needs. And my third question, I don't think --

Jordin Chandler: you may need to repeat those back to me.

Pamela Castellano: I have got them written down so I can.

Jordin Chandler: In proposal, I believe it's section b, the purposes of your trust fund. The purpose is to provide for a continuing non-lapsing fund for the Brevard County commission to use to address affordable housing within Brevard County, and so the funding sources are outlined here. Revenue sources that the county commission could potentially pull from. It is a reoccurring, non-lapsing fund. What currently exists is the affordable housing trust fund which was established by ordinance in 2007. You're looking at 15 years down the road. Really what has been done. The ordinance states that the only funding source that should be allocated to that fund is PILT funds, which is payment in lieu of taxes. It's a check the county gets for taxes that were lost by taxes that were not included on the roll. I don't know what your third question was, sorry.

Pamela Castellano: So, back to that first one, I want to see the language in the amendment before it goes to voters. Because right now it says we could fund it through these different things. But there's no requirement to fund it through one source and there's no dollar tied to that. I could be missing it. We could fund it at \$1. The Sandusky Trust fund, we've already seen what happens. My third question is I'd like to see something to show that the trust fund is going to go to those in the greatest need and how that would be determined It is the first reading. I just wanted to throw that in there.

Jordin Chandler: There are some agreements outlined in this proposal. And so, for individuals or developments, development organizations, whatever the case may be, that want to solicit funds from this particular proposal. Obviously, number one, developers, you would have to show your site plans or development agreement plans to show that you're actually going to be using those dollars for the purposes in which it was intended for. But I hear you. To be honest, I think that this is pretty comprehensive, but if it does move forward, I think we can take into consideration your concerns.

Pamela Castellano: I am not on the panel so you and I can talk outside, too. And I thank you. Again, I know your intention. Please forgive me my distrust of the ability to follow through when some people have good intentions. And those who fall through the cracks don't show up to vote: thank you.

Mike Haridopolos: Well, thanks for your time. We have Katie Delaney.

Katie Delaney: I had a question. Is this transitional housing or is this like where people can buy the housing at a lower rate? Through government subsidies?

Jordin Chandler: so, in essence it would be -- really a combination of both. So, you would have work force housing but also supportive housing for vulnerable families. construction

proposal, something I've seen in other municipalities as well as counties have done is the dollars that they have within their trust fund, they typically have purchased something like an abandoned apartment complex or a hotel then which they turn into a transitional period. That in essence would fall in the category of supportive housing.

Katie Delaney: okay. So, I remember reading about in Salt Lake City there was a plan to help veterans, homeless veterans get housing and kind of help restart their lives. Which I think is phenomenal. We're the richest country in the world. I feel like we should be able to take care of people in need. My only concern is I also feel like there should be a time limit on that. It shouldn't just be an endless hand out. There should be you know, however many years to make sure the tax payer's money isn't going perpetually forever to one family. Yeah. So that's pretty much it. Thank you.

Mike Haridopolos: Any questions? All right. No questions. All right. We've reached the end of the appearance cards on our last item. Are there questions for Mr. Chandler?

Blaise Trettis: Mr. Chandler, I do not see in the definition section a definition for residential density equivalent unit. Could you say what that is.

Jordin Chandler: Yes, sir. So, the definition section, this is actually something I worked on with county staff. If you see section a of the proposal, see section 62—63.01- code of ordinances pertaining to the definition of work force and affordable housing. That particular language is not specifically identified within the proposal that is because I just in essence indicated that you can find that language within the current county -- current county code of ordinances.

Blaise Trettis: and it's in there?

Jordin Chandler yes, sir.

Blaise Trettis: what is it? >> 62--- >> no, what is a residential density equivalent unit. Because it seems to me it's really important because I am looking at paragraph e-1 and it says that the board of county commissioners adopt procedures for housing and human services department to disperse trust funds and residential density equivalent units. To me, that means density beyond what is zoned. Is that what you think it is?

Jordin Chandler: Mr. Trettis, I can definitely look that up and have it at the next meeting. because if it is, to me, that's just like democracy being defeated. Because a government employee, I know there's procedures we're supposed to follow. But a government employee determines density and that's it. That's a way to ruin a neighborhood because the housing and human service department comes in and says we're going to let you build 100 units on this two-acre lot instead of what's zoned now for 20. That's the way I read it. Do you read it differently?

Jordin Chandler: I can definitely review that information and have it at the next meeting. As outlined in the proposal, there's oversight. There's three layers. Number one, you would have oversight over the funding that's allocated over the trust fund. Then the housing and human services department that will follow statutory or state guidelines in enacting or dispersing those funds. And then also per state statute, in my conversation

with some of the individuals in the housing human services department, there would have to be an advisory board, if you would, which would more than likely be the affordable housing council who would make recommendations to the county commission as to if the trust fund needs to be improved in any shape, form or fashion, but back to it, Mr. Trettis, I can review that information and have it for you at the next meeting.

Blaise Trettis: okay. My other question is with the last speaker, I am not seeing any dedicated source of money to this trust fund. So, I am wondering, okay, I guess it is different. You've explained how this -- I was going to ask how was it different from affordable housing trust fund that already exist. I think you explained that because that only has one dedicated funding source. Handler:

Jordin Chandler: correct.

Blaise Trettis: But this proposal doesn't have a dedicated funding proposal either. It just lays out options for the county commission which they already have. They could amend the affordable housing trust fund they have now.

Jordin Chandler: which hasn't been done in 15 years. Obviously, Mr. Trettis, you know which you just indicated that ordinances can be repealed and replaced at any time, but in 15 years that has not been the case. But you know that a charter amendment is more concrete and you must abide by it. As I outlined in here you have several funding sources for the county commission to consider. But also, as outlined in bullet point 5 of revenue sources -- give me just one second here. It says other sources as established by ordinance. So, there's a litany of things that the county commission can enact by ordinance to allocate additional funding to this trust fund.

Blaise Trettis: Okay, this were to pass, the county commission could say, okay, it's on the books. We're not going to fund or do anything with it. That could certainly happen, right?

Jordin Chandler: sorry, repeat your question.

Blaise Trettis: if this were to pass and become part of the charter, the county commission could decide to not do anything to fund it, is that correct?

Jordin Chandler: No, sir. So once again, in the section b, purposes of the trust fund, purpose of the trust fund is to provide a continuing non-lapsing fund for the Brevard county commission to address the need for affordable housing. The funding sources that are outlined there. So, the county would need to address it.

Blaise Trettis: I will tell you my opinion on it, the language gives them the option There is nothing requiring you do to do anything.

Jordin Chandler: I am sorry, it's hard hearing you.

Blaise Trettis: My reading is that the language gives the county commission the option to fund it but they don't have to. The purpose, okay, great. We have a purpose and the county commission say that's a purpose and we're not going to fund this. It could be on the books next six years from now. And the charter review says this was never funded. I

see that as a possibility. I don't see anything in here that the county commission to fund it. I know you said purpose, but purpose is not funding.

Mr. Trettis: once again, I don't necessarily agree with that interpretation of it. okay. >> I think to me it's pretty clear.

Matt Nye: he's going to use the Citizen Advisory Protocol in the charter to encourage them do that, take a vote.

Mike Haridopolos: other questions, Mr. Chandler? Mr. Oliver? all right. It's getting late. Okay. We are -- okay. So further questions? I dealt with the Sadowski funds for years. How much money has Brevard county received. This is why we need more. We all recognize housing prices are up, et cetera. It would help I think everyone digest this a little better if you currently walk through this is what's currently happen and impact and enhance the funding and who it would go to. Even if it's really elementary, I think it would be helpful, Mr. Chandler.

Jordin Chandler: My apologies, and I think a question was asked earlier as to how much funding was currently in the trust fund. That particular time it was about \$300,000.

Mike Haridopolos: Again, I'd like to look at that. I know during the covid crisis that Brevard county had a lot of money to hand out to folks. How that differs with Sadowski might be a different matter. Any questions? Without objection, we'll move this to the next meeting. We've eliminated a few things on our items thus far, get through that. I think there's one, two, three. I think six or seven things.

Jim Liesenfelt: Mr. Chair, we were kind of going through, if you don't mind. Proposal number 2 was voted down or removed. Proposal number 9. Proposal 11, 12, 13, 14, 15, and 16.

Mike Haridopolos: That's correct, that's what I have down.

Jim Liesenfelt: thank you. Well I appreciate everyone's patience. I'm sorry. I'm sorry. You're right. Get back to our -- okay, unfinished business. Future meeting schedule. First and we'll get into it. Robert, do you have an additional public comment you want to make? we're not there yet. Under unfinished business. I think where we're at right now we've eliminated some of these proposals, we've gone from 24 down to 17 or so. Hopefully, we'll be able to manage it. At this time, I don't think we should call for additional meetings unless someone would like to do that. No, great. Under new business, Mr. Trettis, you're recognized.

Blaise Trettis: motion to add -- create the ballot caption and ballot language or question to be answered for any proposal passed by the commission. Right now, you know, people submit proposals and that's the wording of the charter. But what is critically important is what is going to be the ballot summary and ballot caption. That's what the voters are going to look at and decide whether they're going to vote yes or no on any proposal. Right now, there's no provision for anyone to write it. I don't know how it's been written in the past. I don't think it's been written very well. I can tell you that in my opinion because on the three-attorney review panel, which is part of Mr. Gougelman; s memo on that. There

was the copy of the ballot and the summary described it as a review panel. There shall be a review panel for proposals is what it said. It didn't say it was three attorneys. It didn't say that two of three if they voted that it was consistent with state law that it would go to the voters. It didn't say any of that. So, I think it was very misleading, and I think it's really important that any proposal that comes out of this commission has a well written accurate summary in the ballot and an accurate ballot caption. And I think Mr. Gougelman or its commission attorney for future commissions would be the one to do that. Because I think he or whoever the attorney is would work for the commission. And I think they could write it in a neutral manner. I don't think that a commissioner should actually write it because it would become too argumentative and biased. I know if I got the opportunity to write a ballot summary and ballot language, it would be argumentative because I'd want it to pass, but I think Mr. Gougelman would be neutral? If I wrote it, Probably not. It would be argumentative. Okay. But I think Mr. Gougelman would be accurately able to reflect what the proposal is. Again, I don't know who writes it, it goes to the county commission and county attorney, I suppose, I guess. Or maybe the supervisor election writes it. I don't want any of those folks writing it. Our attorney should write the ballot language and the caption. I think we can have input to the attorney. But I think it should be an independent person working for us who writes it. So that's my proposal.

Matt Nye: I agree and I will second.

Chairman Haridopolos: The proposal is in front of us. Any debate on that?

Paul Gougelman question, Mr. Chairman.

Mike Haridopolos: objection? Seeing no objection, showing that adopted. Welcome to the Florida senate. >> yeah. I didn't see any objection. Anybody object? Okay.

Paul Gougelman: As follow up on that. I have already talked with the county attorney's office about putting together resolutions that could be dispatched to the county commission for all of your proposals which would follow the appropriate county form and would include ballot language. So, we're coordinating with the county attorney's office already.

Mike Haridopolos: Thank you. All right. We have one last item. That is public comment, Robert Krinkowski want to make a public comment. Welcome back.

Robert Krinkowski: thank you. Keep it brief as possible. I'll just continue where I left off. I'm going to be speaking on the previous topic. An ordinance is not necessary to partner with the community land trust. That community land trust, if we were to establish this then this trust, it should be sunset. The sunset division -- free market as possible. That does not rely on federal and state funding to match or sustain the trust by waiver or stagnant impact fees -- the current fund we have has no mechanism to generate realistic and actionable revenue. It's insolvent and you really can't do anything with it. -- environmental development best practices such as low impact -- proactive asset management instead of reactive crisis management. Designing, innovating in a way -- if now we start it can possibly sunset the SORIL tax. First, this NGO acquired the land can leverage their SHIP federal money to gain and garner private funding, so they can borrow private money --

this is titled taxpayer initiative how to save taxpayers money using clt's Second, to transfer as much as the revenue -- this is going to be from their point of my point would be to -- those that are included in their bylaws and language that they set up. So, if a company wants to build affordable housing, they have to have in their bylaws that we're going to be altruistic. Business model language that shows that. -- it's something I just coined in transferring that federal and state burden from then the county to the private sector to the already subsidized 501(c)(3) organizations that are already getting subsidized, they're not paying taxes. A lot of them don't, but some of them do. If -- as a church, they need to be helping out the homeless population, not the county. And last, I'll say this, I will end with this proactive asset management would be ideal. Please pass this bill as a response to a crisis which is the only answer we've heard. Caveat with the clt to hedge -- >> question for you.

Matt Nye: I am intrigued because you mentioned the federal reserve the first time you spoke and the inflation and all of that. Is this proposal, it sounds like it's been crafted by a think tank. Can you give me any additional context?

Robert Krinkowski: I did it at 2:00 a.m. last night. -- I looked at any bill, any ordinance and say unfortunately, government, what's their angle? I didn't see one here. I wanted to speak in behalf of Mr. Chandler here. I thought it was a great first draft, presentation. But I think clt is the way to go. No think tank has helped.

Matt Nye: I am not saying that's a knock against you I am thinking in terms of background.

Robert Krinkowski: Seminole County, Manatee County and four other counties have already drafted workforce housing, and I looked through their comprehensive plans. I did look to your question on population density. There's agu's or accrued rates. 144 homes, eight of those homes have to be allowed to be in that area. They also can-do additional unit. So that's like a granny flat or if it's a condo, they can build on that unit. What I worry about there is critical mass infrastructure. Satellite beach area, or anywhere that has a barrier island, thank you for your time.

Adjournment:

Mike Haridopolos: We have reached the end of our agenda. Any other comments for the good of the order? (inaudible) Ms. Schmitt, you are on again, moves we arise. 8:56 pm.



BOARD OF COUNTY COMMISSIONERS

County Manager's Office
2725 Judge Fran Jamieson Way
Building C, Room 301, MS# 88
Viera, Florida 32940

Inter-Office Memo

TO: Charter Review Commission

FROM: Jim Liesenfelt, Assistant County Manager

DATE: June 15, 2022

SUBJECT: Requested Information on Florida School Board Compositions

At a recent Charter Review Commission meeting, the Commission requested staff provide information on various School Board compositions throughout the State.

Attached, please find an information sheet produced by the Florida School Board Association. The information sheet includes School Board Districts with:

- Single Member District Elected Boards
- At-Large Members Boards
- Combination of At-Large and District Elected Boards
- Size of School Boards
- Districts with elected School Superintendents
- Districts with appointed School Superintendents

Staff will be available at the meeting to answer any questions.

Thank you.



School Board & Superintendent Elections & Composition

41 School Boards with All Members Elected At-Large

(Board members must reside in a specified district within the county but are elected county-wide)

Alachua	Gilchrist	Levy	Polk
Baker	Glades	Liberty	Putnam
Bay	Hardee	Manatee*	St. Lucie
Calhoun	Hernando	Marion	Santa Rosa
Charlotte	Highlands	Martin	Sarasota
Citrus	Holmes	Monroe	Seminole
Clay	Indian River	Nassau	Sumter
Collier	Jackson	Okaloosa	Union
DeSoto	Lafayette	Okeechobee	Wakulla
Dixie	Lake	Pasco	Walton
Flagler			

(NOTE: Pursuant to a local referendum approved by Manatee voters in the 2018 General Election, Manatee school board elections will convert from at-large elections to single member district elections.)

21 School Boards with All Members Elected from Single Member Districts

(Board members must reside in a specified district within the county and are elected by those who live within the specified district)

Bradford	Gulf	Osceola
Brevard	Hamilton	Palm Beach
Columbia	Hendry	St. Johns
Duval	Jefferson	Suwannee
Escambia	Leon	Taylor
Franklin	Madison	Volusia
Gadsden	Miami-Dade	Washington

5 School Boards with Combination of Single Member District & At Large Elections

Broward	7 single member district seats; 2 at-large seats
Hillsborough	5 single member district seats; 2 at-large seats
Lee	5 single member district seats; 2 at-large seats
Orange	7 single member district seats; 1 at-large seat (board chair)
Pinellas	4 single member district seats; 3 at-large seats

Number of Members on Each Board

(Total = 358 school board members)

- 58 Boards with 5 members
- 6 Boards with 7 members (Duval, Hillsborough, Lee, Pinellas, Palm Beach, Polk)
- 1 Board with 8 members (Orange – 7 board members, 1 board chairperson)
- 2 Boards with 9 members (Broward, Miami-Dade)

26 Appointed Superintendents

Alachua	Hernando	Monroe	St. Johns
Brevard	Hillsborough	Okeechobee	St. Lucie
Broward	Indian River	Orange	Sarasota
Charlotte	Lake	Osceola	Seminole
Collier	Lee	Palm Beach	Volusia
Duval	Manatee	Pinellas	
Flagler	Miami-Dade	Polk	

41 Elected Superintendents

Baker	Gadsden	Jefferson	Pasco
Bay	Gilchrist	Lafayette	Putnam
Bradford	Glades	Leon	Santa Rosa
Calhoun	Gulf	Levy	Sumter
Citrus	Hamilton	Liberty	Suwannee
Clay	Hardee	Madison	Taylor
Columbia	Hendry	Marion*	Union
Desoto	Highlands	Martin*	Wakulla
Dixie	Holmes	Nassau	Walton
Escambia*	Jackson	Okaloosa	Washington
Franklin			

(NOTE: Pursuant to referenda approved by voters in Escambia, Marion, and Martin in the 2018 General Election ballot, the position of superintendent will be converted from an elected to an appointed position. The conversion to an appointed superintendent will be effective no later than 2020.)



MEMORANDUM

TO: Chairman and Members of the Brevard
County Charter Review Commission

FROM: Paul Gougelman, Charter Commission General Counsel

SUBJECT: 10-Vote Rule

DATE: May 16, 2022

BACKGROUND: Charter Review Commission (“CRC”) Member Kendall Moore has posed a question regarding Rule 17 of the Rules of Procedure of the Brevard County CRC. The rule provides:

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.

Mr. Moore asks whether the foregoing 10 vote requirement is in violation of Charter, since it is not in the Charter.

SHORT ANSWER: The 10-vote requirement as a rule of procedure is not in violation of the Charter given that it is not set forth in the Charter.

ANALYSIS: The 10-vote requirement has its genesis in the proceedings of the original Charter Commission in 1993. Members of the original Charter Commission adopted the rule as a way to limit potentially controversial proposals, some of which might have limited public support, being made a part of the Charter. The feeling among the Members was that if a proposal couldn’t garner ten of the 15 member votes, it didn’t have the requisite support to be included in the original Charter document placed on the 1994 ballot.¹

¹ This synopsis is derived from memory given that I served as Chairman of the 1993/94 Charter Commission.

The 10-vote rule is currently included in the CRC's Rules of Procedure. The rules were adopted by the CRC. The CRC is a policy-making body with the authority to propose amendments to the Charter. The Charter is, of course, the County's "constitution" of sorts.

As a document, it supersedes ordinances and resolutions of the County Commission. The act of amending a charter appears to be legislative in nature,² and this action can be compared to the act of amending a local government's comprehensive plan, which is a land use and development policy document.³

Consequently, it is my opinion that the CRC is a legislative body. As a legislative body, while there is apparently no Florida case law on point, national case law indicates that a legislative body has the inherent power to adopt rules of procedure. For example, a New York court observed that each legislative body, when it meets, and unless restrained by the authority that created it, is without rules of procedure and may make its own rules without reference to the action of preceding bodies. People ex rel. Powott Corp., v. Woodworth, 151 N.Y.S.2d 985 (Sup. 1939), *rev'd on other grounds*, 21 N.Y.S.2d 785 (Fla. 4th Dept. 1940); 59 Am.Jur.2d *Parliamentary Law* §2. Control of its own procedure is the established prerogative of a legislative body. Mayhew v. Wilder, 46 S.W.3d 760 (Tenn.Ct.App. 2001); 59 Am.Jur.2d *Parliamentary Law* §2.

As a legislative body, it would seem that inherent in that role, the Board has the right to adopt rules of procedure. Those do not necessarily need to be in the Charter itself.

PRG/mb

² Cf. Gaines v. City of Orlando, 450 So.2d 1174 (Fla. 5th DCA 1984); Bubier v. State ex rel. Crane, 299 So.2d 98 (Fla. 4th DCA 1974).

³ This can be compared with the Florida Supreme Court's view of a municipal or county comprehensive plan. The plan by statute supersedes land development code ordinances and resolutions. See §163.3194, Fla.Stat. The comprehensive plan is like a constitution for land use and development issues. Machado v. Musgrove, 519 So.2d 629 (Fla. 3d DCA 1987). In Yusem v. Martin County, 690 So.2d 1288, 1293-94 (Fla. 1997), the Florida Supreme Court found that the act of adopting an amendment to a comprehensive plan was a legislative act. With little discussion, the Court found that the act of amending a comprehensive plan required a reformulation of policies in the plan. Even the adoption of small-scale amendments have been found by the Supreme Court to be legislative acts. Coastal Development of North Florida v. City of Jacksonville Beach, 788 So.2d 204, 207-09 (Fla. 2001); accord Payne v. City of Miami, 53 So.3d 258 (Fla. 3d DCA 2010); Island, Inc. v. City of Bradenton Beach, 884 So.2d 107 (Fla. 2d DCA 2004).



MEMORANDUM

TO: Chairman and Members of the Brevard
County Charter Review Commission

FROM: Paul Gougelman, Charter Commission General Counsel

SUBJECT: Proposal 23; Proposal to Add Two Members to School Board

DATE: May 20, 2022

BACKGROUND: At the last meeting of the Charter Review Commission (“CRC”) meeting, I was asked to research the legality of Proposal 23. Proposal 23 provides for Section 8.1 of the Charter to be amended to elect two school board members at-large/county wide.

SHORT ANSWER: The proposal appears to be inconsistent with Section 1001.34(2), Florida Statutes, which provides the method of expanding a school board to seven members.

ANALYSIS: Section 1001.34(2), Florida Statutes, provides the method for expansion of a school board. Pursuant to the statute, the school board adopts a resolution to expand the board to have not less than 5 members. The resolution also specifies the number of members to be elected at large or from single-member districts. The issue is then presented to the electors. Proposal 23 appears inconsistent with this statute.

1001.34 Membership of district school board.—

(1) Each district school board shall be composed of not less than five members. Each member of the district school board shall be a qualified elector of the district in which she or he serves, shall be a resident of the district school board member residence area from which she or he is elected, and shall maintain said residency throughout her or his term of office.

(2) A district school board may modify the number of members on its board by adopting a resolution that establishes the total number of members on the board, which may not be less than five, and the number of members who shall be elected by residence areas or elected at large. The resolution must specify an orderly method and procedure for modifying the membership of the board, including staggering terms of additional members as necessary. If the resolution is adopted, the district school board shall submit to the electors for approval at a referendum held at the next primary or general election the question of whether the number of board members

should be modified in accordance with the resolution adopted by the district school board. If the referendum is approved, election of additional school board members may occur at any primary, general, or otherwise-called special election.

(emphasis supplied).

Although the foregoing statute was adopted in 2002,¹ an early opinion of the Florida Attorney General answered the question of expanding a school board by charter amendment in AGO 71-109. The opinion of the Attorney General related to Section 230.04 and 230.061, Florida Statutes, which had been law for several decades and have been replaced by Section 1001.34, Florida Statutes. The opinion provides guidance however..

The Attorney General was asked whether the Lee County charter could provide for enlarging the Lee County Board of Instruction from its present 5 members to 13 members? The Attorney General found that a county home rule charter may not vary the *tenus* of general state law on the composition of the school board. The Attorney General noted that the:

question is concerned with the propriety of including in a county home rule charter various provisions respecting the operation of the free public school system in the county. For the reasons hereafter stated, I have the view that a county home rule charter may not vary the terms of the general law in this respect. The free public school system has never been included among the state functions and services that have been delegated by the legislature, under applicable provisions of the 1885 Constitution, to the counties to perform as political subdivisions or "arms" of the sovereign state; on the contrary, the free public school system has traditionally been required to be operated and controlled independently of the regular county government. See *Blake v. City of Tampa, Fla.* 1934, 156 So. 97, 100, holding that the school property and the county school fund are held by the school board "for the use of the state, to carry on the state's constitutional system of public schools. . . ."

[T]he members of the county board of public instruction were said to be "statutory elective officials" within the purview of the governor's constitutional power of suspension, see *In re Advisory Opinion to the Governor, Fla.* 1929, 122 So. 7, 8. But regardless of the nomenclature used to designate these officials, the fact remains that they, too, have been dealt with by the legislature as a separate and distinct class of officers insofar as their nomination and election are concerned. See *Advisory Opinion to*

¹ See §41, Chap. 2002-387, Laws of Fla. and §15, Chap. 2014-39, Laws of Fla.

Governor, Fla. 1944, 19 So.2d 198, 199, construing §§230.04 et seq., F. S., 1941, as providing "a complete scheme for nominating, electing, and filling vacancies in County Boards of Public Instruction."

This dichotomy between county government and the operation and control of the state's free public school system in each county has now been formalized in the 1968 Constitution. Under §4 of Art. IX, State Const., the unit for the control, organization and administration of the school system is the "school district," which may consist of one or more counties. The members of the governing body of a school district have now become constitutional elective district officers, as have the superintendents of schools. See §§4 and 5, Art. IX, *ibid*.

The implementing statute, Ch. 230, F. S., has been amended to show the true status of these officers as district rather than county officers. In the light of this historical background, it seems clear that the "home rule" powers delegated to a county by Art. VIII of the 1968 State Const., as implemented by §125.65, F. S., 1969, would not include any power or authority with respect to the free public school system in this state. It is an indispensable element of all "home rule" constitutional provisions that the power to legislate locally shall be confined to local affairs. See 37 Am. Jur., Municipal Corporations, §106, p. 715.

A "home rule" constitutional provision effects a redistribution of existing governmental powers but does not enlarge the functions of government. *Ibid.*, §105, p. 714. As noted above, the operation of the free public school system has never been a function of county government in this state; and it is now expressly dissociated from county government by the provisions of the 1968 Constitution referred to above. Nor has the operation of the state's free public school system ever been considered a "local affair." Both the 1885 and 1968 Constitutions contemplate a "uniform system of free public schools" in this state. Section 1, Art. XII, State Const., 1885, and §1, Art. IX, State Const., 1968.

Under the 1885 Constitution, the school property and the county school fund were said to be a "sacred constitutional trust" to be used for the establishment of a system of public free schools "upon principles that are of uniform operation throughout the State. . . ." *Blake v. City of Tampa, Fla.* 1934, 156 So. 97; 100. This decision is equally applicable under the 1968 State Constitution. See also *State ex rel. Moodie v. Bryan, Fla.* 1906, 39 So. 929, in which the provisions of former §25 of Art. III, State Const., 1885, authorizing special legislation as to "public schools" in this state, were said

to refer only to institutions of higher learning and not to the system of free public schools in this state.

In these circumstances it is abundantly clear that a county government has nothing whatsoever to do with the administration of the free public school system in this' state, as provided for by Art. IX of the 1968 State Constitution, Ch. 230, F. S., and other applicable provisions of law. Not being a function of county government, the delegation or "redistribution" of sovereign powers made by §1, Art. VIII, State Canst., 1968, was not intended to and did not confer upon the counties any "home rule" powers in this respect. It necessarily follows that a home rule charter' may not validly deal with this subject.

Consequently, the expansion of the School Board appears to be beyond the scope of a county charter.

PRG/mb



MEMORANDUM

TO: Chairman and Members of the Brevard
County Charter Review Commission

FROM: Paul Gougelman, Charter Commission General Counsel

SUBJECT: Proposal 21; Proposal to Make School Board
Superintendent an Elective Office

DATE: May 21, 2022

BACKGROUND: At the last meeting of the Charter Review Commission (“CRC”) meeting, I was asked to research the legality of Proposal 21. Proposal 21 provides for the addition of a new Section 8.2 to the Charter to provide that the Superintendent of Schools shall be an elected position.

According to the Florida Department of Education, of Florida’s 67 counties, 29 counties have appointed school superintendents.¹ All of Florida’s 10 largest counties have appointed school superintendents.²

Appointed professional school board superintendents subject to hiring and firing by an elected School Board is an administrative concept similar to that of most municipalities in Florida and many of the larger counties with city or county managers hired and fired by an elected council or commission. The concept is known as the Council-Manager form of government.

SHORT ANSWER: The proposal appears to be inconsistent with Section 1001.461, Florida Statutes, which provides the method of providing for making the position in any county school board superintendent to be elected.

ANALYSIS: Section 1001.46, Florida Statutes, provides that a School Board Superintendent is elected for a term of four years or until the election or appointment of his or her successor.³ Section 1001.461, Florida Statutes, provides that consistent with the

¹ www.Fldoe.org/accountability/data-sup/school-dis-data/superintendents.shtml

² *Id.*

³ The statute provides:

1001.46 District school superintendent; election and term of office.—The district school superintendent shall be elected for a term of 4

Florida Constitution, the school board superintendent may be appointed once the proposition of an appointed superintendent is approved by the voters.⁴

A call has been made to the School Board Attorney to ascertain when the position became an appointed position in Brevard County. It happened long enough ago that there is no institutional knowledge of when it occurred, and the issue is being researched by the School Board Attorney. However, state law makes it clear that the voters would have had to have approved the concept of an appointed school board superintendent.

years or until the election or appointment and qualification of his or her successor.

⁴ The statute provides:

1001.461 District school superintendent; procedures for making office appointive.—

(1) Pursuant to the provisions of s. 5, Art. IX of the State Constitution, the district school superintendent shall be appointed by the district school board in a school district wherein the proposition is affirmed by a majority of the qualified electors voting in the same election making the office of district school superintendent appointive.

(2) To submit the proposition to the electors, the district school board by formal resolution shall request an election that shall be at a general election or a statewide primary or special election. The board of county commissioners, upon such timely request from the district school board, shall cause to be placed on the ballot at such election the proposition to make the office of district school superintendent appointive.

(3) Any district adopting the appointive method for its district school superintendent may after 4 years return to its former status and reject the provisions of this section by following the same procedure outlined in subsection (2) for adopting the provisions thereof.

Article IX, Section 5 of the Florida Constitution of 1968 referenced above provides:

SECTION 5. Superintendent of schools.—In each school district there shall be a superintendent of schools who shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board, or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.

The concept of an appointed School Board Superintendent was first approved by the voters in 1964, as an amendment to the Florida Constitution of 1885. Although Section 1001.461 was adopted in 2002, it was preceded by a virtually identical statute first enacted in 1969. See §230.241, Fla.Stat.; §1, Chap. 69-160 and 69-300, Laws of Fla.

The School Board operates pursuant to Florida's Administrative Procedure Act,⁵ which is a detailed process proscribed by the Legislature for state and certain local governmental agencies to adopt policies.⁶ Consistent with the concept of an appointed superintendent, the Brevard County School Board has adopted Section 1020 of its Policy Manual providing for appointment of the superintendent.⁷

⁵ See §120.51 *et seq.*, Fla.Stat.

⁶ By act of the Legislature, municipalities and counties are excluded from being subject to the Administrative Procedure Act. §§120.52(1)(c) and 120.54(1)(a), Fla.Stat.

⁷ Section 1020 of the Brevard County Schools Policy Manual provides:

1020 - EMPLOYMENT OF THE SUPERINTENDENT

The Board vests the primary responsibility for administration of this District in the Superintendent. The appointment of that officer is, therefore, one of the most important functions the Board can perform.

Whenever the position of Superintendent shall be vacant, the Board shall appoint a Superintendent as chief executive officer and fix the salary and term of office which shall be no more than four (4) years.

The Board shall actively seek the best qualified and most capable candidate for the position of District Superintendent.

It may be aided in this task by the services of professional consultants and/or the participation of members of the community. Recruitment procedures shall be prepared in advance of the search and shall include the following:

- A. the preparation of a written job description for the position of Superintendent
- B. preparation of informative material describing this District and its educational goals
- C. where feasible, the opportunity for applicants to visit the schools of this District
- D. the requirement that selected candidates for the position be interviewed by Board members in a format that encourages them to express their educational philosophy
- E. solicitation of applications from a wide geographical area
- F. consideration of all applicants fairly without discrimination on the basis of race, gender, age, religion, ethnic background, disability, or other condition unrelated to the position of Superintendent

No person may be employed as Superintendent of this District unless they have signed an employment agreement with the Board.

Such agreement shall include:

- A. the term for which employment is contracted, including beginning and ending dates;

Section 1001.461(3), Florida Statutes, provides that once a county's voters decide to have an appointed superintendent, the process for going back to an elected superintendent is for the school board to pass a resolution providing for the issue to be presented to the voters. The county commission is then required to place the issue on the ballot at a general election, statewide primary, or special election.

PRG/mb

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- B. the salary which the Superintendent shall be paid and the intervals at which s/he shall be paid;
 - C. the benefits to which s/he is entitled;
 - D. such other matters as may be necessary to a full and complete understanding of the employment contract.

The Superintendent so appointed shall be devoted exclusively to the duties of the office and maintain a principal residence within the District, unless otherwise approved by the Board.

Any candidate's intentional misstatement of fact material to his/her qualification for employment or the determination of salary shall be considered by this Board to constitute grounds for dismissal.



MEMORANDUM

TO: Chairman and Members of the Brevard
County Charter Review Commission

FROM: Paul Gougelman, Charter Review
Commission General Counsel

SUBJECT: Proposal 6; Right to Clean Water

DATE: May 31, 2022

BACKGROUND: The Indian River Lagoon Roundtable has submitted Proposal 6 entitled a Right to Clean Water. The Charter Review Commission (“CRC”) meeting, has asked for research with regard to the legality of Proposal 6, and the CRC has also recommended that the attorneys for the Indian River Lagoon Roundtable appear before the CRC to assist the CRC in gaining a better understanding of Proposal 6.

Proposal 6 provides for a new Section 5.7 to the Charter which right is entitled “Right to Clean Water.” Specifically, proposed Section 5.7.3 provides “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.” Key definitions of the terms “clean water” and “governmental harm” appear in proposed Section 5.7.2.

SHORT ANSWER: The proposal appears to be inconsistent with Section 403.412(9)(a), Florida Statutes, which prohibits amending a county charter to add provisions such as Proposal 6 – the Clean Water Proposal. However, the only way to test that prohibition or the constitutionality of it is to adopt the charter proposal and prepare to litigate.

ANALYSIS:

1) *What does the proposal permit?* The proposal allows a citizen to file a lawsuit against a responsible party to stop water pollution, to abate the pollution caused, and “when feasible,” to restore waters to their pre-damaged condition. The responsible parties (and presumably a governmental entity) would bear the costs and not the public for remediation to a pre-damaged condition.

2) *Does this proposal allow the government or private parties to be sued?* It is pointed at lawsuits against governmental entities. However, as outlined below in the answer to Question 8), private property owners, developers, and permit holders, could also be *required* to be a defendant in any lawsuit.

3) *What Limitations are Not Present in Proposal 6?* For one, standing to sue is apparently granted to anyone under any circumstance. This issue is not really addressed in Proposal 6. Standing depends on whether a party has a sufficient stake in a justiciable controversy, with a legally cognizable interest that would be affected by the outcome of the litigation and is not conjectural or merely hypothetical. Nedeau v. Gallagher, 851 So.2d 214 (Fla. 1st DCA 2003); 9 Fla.Jur.2d *Parties* §2.

To bring a lawsuit a party must demonstrate a direct and articulable interest in the controversy that will be affected by the outcome of the litigation. Whitbum, LLC v. Wells Fargo Bank, N.A., 190 So.3d 1087 (Fla. 2d DCA 2015).

Florida recognizes a general standing requirement in the sense that every case must involve a real controversy as to the issue or issues presented, Dept. of Revenue v. Kuhnlein, 646 So.2d 717 (Fla. 1994); 9 Fla.Jur.2d *Parties* §2, meaning that the parties must not be requesting an advisory opinion.

One should compare the "anyone can sue" concept inherent in the clean water proposal with the manner in which the courts have handled standing in zoning case. The courts have employed a narrower concept of who has standing to sue the county or a property owner over a rezoning or zoning violation. For example, in Renard v. Dade County, 261 So.2d 832 (Fla. 1972), the Florida Supreme Court was concerned that anyone can sue approach would permit so-called "spite suits," which the Court refused to tolerate. *Id.*, at 837.

The Court determined that there are two ways in which one can have standing to sue in a zoning case, but in all cases "[a]n aggrieved or adversely affected person having standing to sue is a person who has a legally recognizable interest which is or will be affected by the action of the zoning authority in question." *Id.*

The first manner in which standing can be found is that the interest could be one shared in common with a number of other members of the community as where an entire neighborhood is affected, but to have standing the individual must have a definite interest exceeding the general interest in community good shared in common with other citizens. *Id.*

The second manner in which a person may demonstrate standing is by having suffered so called "special damages." What this means is that the damage suffered is peculiar to the person initiating a lawsuit differing in kind as distinguished from damages differing in degree suffered by the community as a whole.¹

¹ The Supreme Court noted that the "special damages" concept is an outgrowth of the law against nuisances. Renard, at 835 n.5.

When the Proposal 6 Applicant's attorneys appear at a hearing, this might be a good question to pose. Shouldn't there be a standing requirement, or alternatively, does the Applicant believe that Proposal 6 has such a requirement?

4) *What are the penalties for violation of this provision?* This is not a criminal statute. It does not provide for incarceration for any period of time for anyone. Only the Legislature can create laws with criminal penalties such as misdemeanors or felonies.² It provides for enforcement by a civil action, and a court may provide equitable relief. See §5.7.4. of Proposal 6. What this means is that a court could issue an injunction, declaratory relief, or some other type of relief such as specific performance.

5) *Can a county provide for a civil cause of action enforceable by the county or a citizen?* As a general rule, the answer is likely yes, although this presents a somewhat novel question. The County has already done this in at least one instance. For example, a citizen may sue a county for violation of its cell phone tower location code. See 62-2412, Brevard County Code of Ordinances.³ Additionally, as long as the cause of action is not barred by the Florida Constitution, the Charter itself, or general law, it would seem that the concept of home rule would support creation of the Proposal 6 cause of action. City of Boca Raton v. State, 595 So.2d 25, at 27 (Fla. 1992); Speer v. Olson, 367 So.2d 207, 211 (Fla. 1978).

6) *Since violation of the Clean Water Proposal is not a criminal offense, what type of relief can be obtained by a plaintiff?* According to proposed Section 5.7.4, a civil action may be maintained for "equitable relief."⁴ So-called "equitable relief" would usually

² The Legislature has authorized municipalities and counties to adopt laws with penal penalties. This class of offenses allow penalties of fines up to \$500 and/or 60 days in jail, which is similar to a second degree misdemeanor. See §§162.21(5), 162.22, 775.083(1)(e) Fla.Stat.; cf. Thomas v. State, 614 So.2d 468 (Fla. 1993). However, under the law, these offenses do not constitute crimes such as misdemeanors or felonies. They are what is known as a civil infraction. §775.08(3), Fla.Stat.

³ This provision provides that appeals from the administrative enforcement and interpretation of this division [the Communications Facilities Ordinance of Brevard County] may be filed pursuant to section 62-301. Any aggrieved or adversely affected party with legal standing may challenge a *quasi-judicial* decision of the board of county commissioners by filing an action for appropriate relief in a court of competent jurisdiction within 30 days of the date the decision was rendered. It would seem that under the grant of constitutional home rule, so long as the cause of action is not inconsistent with the Florida Constitution, general law, or the Charter, the County could provide a cause of action.

⁴ Section 5.7.4 provides:

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

include non-money damages, such as a court ordering specific performance of a contract by a party to that contract.⁵ Under this view, what distinguishes an action at law from one in equity is that an action at law usually seeks a money judgment for damages¹¹ while equitable actions seek some form of specific relief, such as an injunction. 1 Am.Jur.2d *Actions* §6 nn. 11 and 12.

However, despite the fact that the proposed Section 5.7.4 refers to “equitable relief,” don’t be fooled, because money damages could be involved. A Florida court rule providing for one form of action to be known as a “civil action” eliminates the distinctions between legal and equitable actions. Comment to Fla. R. Civ. P. 1.040. Thus, a litigant may present a claim in an orderly manner to a court empowered to give the litigant whatever relief is appropriate and just, which could be either legal or equitable relief. *Id.*; 1 Fla.Jur.2d *Actions* §11 (2022).

For example, under the Clean Water Proposal, a court could order the County and a developer to stop polluting the Indian River Lagoon (so-called equitable relief) *and* to clean up or remediate any damage caused to date, which would likely involve the expenditure of money.

7) *What type of “harm” does the Clean Water Proposal seek to stop or regulate?*
To answer this question, one needs to study the definition of “governmental harm” as set forth in Section 5.7.2. The definition is broad.

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

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.

(emphasis supplied).

⁵ Usually involving a contract. *Arizona Properties Marketing Co. v. Allen*, 392 So.2d 1359 (Fla. 1st DCA 1981); *Perry v. Benson*, 94 So.2d 819 (Fla. 1957); *McCormick v. Bodeker*, 160 So. 483 (Fla. 1935).

or invasive species; that obstruct or divert natural flow; and that overexploit native species.

As an example, the Indian River Lagoon has historically been a habitat for sawfish.⁶ The “small toothed sawfish” was the first marine fish determined as “critically endangered” in United States’ waters by the federal government.⁷ Thus, degradation of the Lagoon as a habitat for sawfish could constitute a “governmental harm.” The point here is that it is not just causing algae blooms in the Indian River Lagoon that could trigger the finding of a “governmental harm.”

8) *If a “governmental harm” is determined to exist, could a lawsuit be brought against the County and a private property owner?* This seems to be a good question to pose to attorneys for the individuals proposing Proposal 6. My legal view is “yes,” such a lawsuit could be maintained. An example illustrates the point.

Section 5.7.2 defines a “governmental harm” as a condition arising from a governmental policy, rule, or permit. Thus, if the County issues a permit to a developer, and a citizen initiates an action against the County for the issuance of the permit, the question arises whether the developer who has certain rights in the permit should not also be made a party to the lawsuit. After all, the lawsuit might seek invalidation of the permit. On the other hand, if a developer is legally conducting activity pursuant to a properly issued permit, the developer may have a defense, (see Siesta Key Association of Sarasota, Inc. v. City of Sarasota, 20 So.3d 833 (Fla. 2d DCA 2021)(dredge and fill found to be permissible to continue given the existence of a permit to undertake same; action pursuant to a different sub-section of Section 403.412, Florida Statutes), which might not be available to the County that issued the permit.

⁶ [At one time](http://jacquithurlowlippisch.com/2014/03/28/endangered-small-toothed-sawfish-and-the-indian-river-lagoon/) Small-toothed Sawfish were common in the Indian River Lagoon, historically reported from 18-28 feet. See photograph at Sewall’s Point, 1916, and report, Thurlow-Lippisch, Jacqui, [Endangered Small-toothed Sawfish and the Indian River Lagoon](http://jacquithurlowlippisch.com/2014/03/28/endangered-small-toothed-sawfish-and-the-indian-river-lagoon/), jacquithurlowlippisch.com/2014/03/28/endangered-small-toothed-sawfish-and-the-indian-river-lagoon/.

⁷ *Id.* Section 9 of the ESA makes it illegal to take an “endangered species” of fish or wildlife. The definition of “take” is to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” (16 U.S.C. 1532(19)). The U.S. Fish and Wildlife Service (FWS) issued a regulation further defining the term “harm” to eliminate confusion concerning its meaning (40 Fed.Reg. 44412; 46 Fed.Reg. 54748). The FWS’ definition of “harm” has been upheld by the Supreme Court as a reasonable interpretation of the term and supported by the broad purpose of the ESA to conserve endangered and threatened species (See Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, 115 S. Ct. 2407, 2418, 1995). 64 Fed.Reg. 60727 (Nov. 9, 1999). “Harm” has been defined by the National Marine Fisheries Service as “an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding or sheltering.” 64 Fed.Reg.60727, 60730 (Nov. 9, 1999).

Analogizing to the zoning arena, in Highwoods DLF Eola, LLC v. Condo Developer, LLC, 51 So.3d 570 (Fla. 5th DCA 2010), Orlando issued a master plan amendment to permit a 42-story high rise building. A neighboring property owner filed suit against the City but did not name the permit holder/developer. The appellate court found that the permit holder/developer should have also been named in the lawsuit, because the permit holder/developer had a “direct and immediate interest” in the lawsuit. If the permit was invalidated, the permit holder/developer would have legal interests at stake.

9) *Is the Clean Water Proposal Inconsistent with Florida law – Section 403.412(9)(a), Florida Statutes?* I conclude that it is inconsistent with Florida law, but the only way we will ever be certain is by litigating the legality of the proposal, which of course, would require adopting Proposal 6 as a part of the Brevard County’s Charter.

Section 403.412(9)(a), Florida Statutes, which provides:

(9)(a) 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.

This provision was adopted by the Legislature in 2020 after the voters in Orange County amended the Orange County Charter to include a proposition similar to Proposal 6, the Clean Water Proposal. See §24, Chap. 2020-150, Laws of Fla.⁸

I think the concept of granting 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” is somewhat of a red herring.⁹ Proposal 6 does not seem to grant legal rights to plants,

⁸ Associated Industries of Florida, a coalition of industry lobbyists, endorsed the measure, saying it “addresses water quality and protects Florida businesses from lawsuits by defining that people cannot sue on behalf of inanimate objects, i.e. rivers, lakes, streams etc.” That latter provision shields businesses from being sued over “rights of nature’ amovement attempting to assign legal rights to natural resources such as waterways.

Cassels, Laura, *DeSantis Signs Water Quality Bill Touted as Historic, Yet Also Condemned as Polluter-Friendly*, Florida Phoenix, pp.1 at 2 (June 30, 2020);www.floridaphenix.com/2020/6/30/desantis-signs-water-quality-bill-touted-as-historic-yet-also-condemned-as-polluter-friendly/. Credit is attributed to CRC Member Blaise Trettis for finding this article.

⁹ A “red herring” is defined as “something intended to divert attention from the real problem or matter at hand; a misleading clue. Dictionary.com.

animals, *etc.* Rather, it provides for a cause of action by individual people or governmental entities to stop and reverse what is defined as a “governmental harm.”

While the enactment may seem confusing, it is easier to discern its meaning when one reads relevant portions of the statute as follows: “A local government . . . charter, . . . may not . . . grant . . . [a] 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.”¹⁰ (emphasis supplied).

Opponents of the enactment argue that the foregoing provision of general law specifically prohibits a charter from being amended to include a provision such as Proposal 6, the Clean Water Proposal. Supporters of the Clean Water Proposal would argue that Section 403.412(9)(a), Florida Statutes, is unconstitutional. They point out that it is vague and therefore void. See Proposal 6, Indian River Lagoon Roundtable, Executive Summary, Brevard County Charter Amendment – Right to Clean Water, Attachment 1 at p. 5-6 (2022).

Additionally, the proponents of Proposal 6, the Right to Clean Water, also argue that Proposal 6 is based on and implements Article II, Section 7.(a) of the Florida Constitution, which provides:

SECTION 7. Natural resources and scenic beauty.—

(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.

Given that Proposal 6 is intended to implement the foregoing constitutional provision, the Proposal 6 proponents might argue that Section 403.412(9)(a), Florida Statutes, bars citizens’ access to courts in violation of Article I, Section 21, of the Florida Constitution, which provision grants to citizens access to courts to seek legal redress.¹¹ Although litigation under Article I, Section 21 of the Florida Constitution is limited, the case of Kluger v. White, 281 So.2d 1 (Fla. 1973), first recognized the “success to courts” concept.

The Supreme Court in Kluger noted that “[t]his Court has never before specifically spoken to the issue of whether or not the constitutional guarantee of a ‘redress of any injury’ (Fla.Const., art. I, s 21, F.S.A.) bars the statutory abolition of an existing remedy without

¹⁰ When this statute was enacted, there was almost no analysis of the effect of this legislation. See CS/CS/SB-712, The Florida Senate Bill Analysis and Fiscal Impact Statement p.34-35 (Feb. 24, 2020)..

¹¹ Article II, Section 21 provides:

SECTION 21. Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

providing an alternative protection to the injured party.” In Kluger, the Supreme Court recognized that the Legislature could not abolish a remedy that existed at common law or a statutory right of action without providing an adequate alternative. The Court stated that:

We hold, therefore, that where a right of access to the courts for redress for a particular injury has been provided by statutory law predating the adoption of the Declaration of Rights of the Constitution of the State of Florida, or where such right has become a part of the common law of the State pursuant to Fla.Stat. s 2.01, F.S.A., the Legislature is without power to abolish such a right without providing a reasonable alternative to protect the rights of the people of the State to redress for injuries, unless the Legislature can show an overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown.

Id., at 3.

Whether the remedy of access to courts would extend further has not been examined by the Florida Supreme Court. However, see Siesta Key Association of Sarasota, Inc. v. City of Sarasota, 20 So.3d 833 (Fla. 2d DCA 2021)(dredge and fill found to be permissible to continue given the existence of a permit to undertake same; action pursuant to a different sub-section of Section 403.412, Florida Statutes).

While it is questionable under Kluger whether the reach of the constitutional access to courts provision would preserve a cause of action implementing or based upon an implementation of Article II, Section 7 of the Florida Constitution, it is still an issue open to judicial interpretation.

The key here is that no one will ever be able to tell whether the statutory preemption is void for vagueness, abridges the right of access to courts, or some other right, without litigating the matter, and the only way for litigation to occur is through an adopted charter provision, be it in Brevard or Orange Counties. In any event, for the time being, the statute is currently effective, and it is therefore, presumed to be valid until shown otherwise in a judicial forum. See Dept. of Children and Family Services v. Natural Parents of J.B., 736 So.2d 111 (Fla. 4th DCA 1999), *approved*, 780 So.2d 6 (Fla. 2001); 48A Fla.Jur.2 *Statutes* §92 nn.3 and 4 (2022).

PRG/mb



MEMORANDUM

TO: Chairman and Members of the Brevard
County Charter Review Commission

FROM: Paul Gougelman, Charter Review
Commission General Counsel

SUBJECT: Proposal 6; Right to Clean Water; Question From Tom Jenkins

DATE: June 3, 2022

BACKGROUND: Mr. Jenkins has posed a question whether Proposal 6, the Right to Clean Water, is intended to be effective countywide or just in the unincorporated area. He cites Section 1.8 of the Charter which states:

Sec. 1.8. - Charter amendments affecting municipalities.

No provision of this Charter adopted after December 1, 2010, which conflicts with, transfers, or limits any function, service, power, or authority of a municipality within Brevard County, shall apply to a municipality affected unless a majority of the voters in the municipality voting in a referendum approve the charter amendment.

SHORT ANSWER: The proposal does not limit itself to the unincorporated area, and given that various water bodies that might be the subject of enforcement flow in both incorporated and unincorporated areas, it would appear that it might be difficult to restrict the proposal to just the unincorporated area. I suggest that this is a good issue to clarify with the Applicant's attorneys when they appear before the Charter Review Commission.

Another issue to be clarified is, assuming that Proposal 6 is intended to be effective countywide, what happens if Proposal 6 does not receive the requisite elector support in a particular municipality but the water body subject to enforcement flows thru a portion of that municipality? The Applicant could be questioned about this issue given that enforcement against that municipality would not be possible.

A final issue is if Proposal 6 is intended to be effective countywide, what is the position of the municipalities with regard to this proposal? That question could be posed to the Space Coast League of Cities.

PRG/mb

Chairman and Members of the Brevard
County Charter Review Commission
May 31, 2022
Page 2 of 2

**Rules of Procedure
Brevard County Charter Review Commission**

(As Amended ~~April 21, 2022~~ May 12, 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. 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.

Rule 18-19. 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 19-20. 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.

2022\CRC RULES (05/12/2022) FINAL

Meeting Date
06/23/2022



AGENDA	
Section	
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.

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:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

Staff Contact:

Melissa Brandt

Telephone Number:

(321) 301-4438

Email Address:

Melissa.Brandt@brevardfl.gov

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 language 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 management action 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, apolitical 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, substantive, "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."). [See also Florida Wildlife Federation v. STATE, ETC. 390 So. 2d 64 \(1980\):](#)
 - **"We hold that by enacting section 403.412 the legislature created a new cause of action, giving the citizens of Florida new substantive rights** not previously possessed. This statute sets out an entirely new cause of action. By providing that the manner in which a potential plaintiff is affected must be set out, the statute ensures that the minimum requirements of standing-injury and interest in redress-will be met. As a new cause of action, the statute is substantive law. Substantive law has been defined as "that part of the law which creates, defines, and regulates rights, or that part of the law which courts are established to administer." State v. Garcia, 229 So. 2d 236, 238 (Fla. 1969). **By the enactment of section 403.412(2)(a) the citizens of Florida have been given the capacity to protect their rights to a clean environment-a right not previously afforded them directly."**
- 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.

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. ~~Harm prohibited.~~ It shall be unlawful and a violation of this Section for any state executive governmental entity to harm or threaten to harm waters of Brevard County by action or inaction. To protect substantial individual, group, economic, and environmental interests in clean water, residents who 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~~ may 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, order, or permit that, by action or inaction of the State of Florida or its executive agencies, negatively affects the health or safety of humans, fish or wildlife by ~~either~~ the pollution or degradation of waters, in breach of their duties under constitutional or general law. 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. (pasted to 5.7.1)

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.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

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:

**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 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.

system must be managed, controlled, operated, administered, and supervised as follows:

(1) **DISTRICT SYSTEM.**—The district school system shall be considered as a part of the state system of public education. All actions of district school officials shall be consistent and in harmony with state laws and with rules and minimum standards of the state board. District school officials, however, shall have the authority to provide additional educational opportunities, as desired, which are authorized, but not required, by law or by the district school board.

(2) **DISTRICT SCHOOL BOARD.**—In accordance with the provisions of s. 4(b) of Art. IX of the State Constitution, district school boards shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law.

(3) **DISTRICT SCHOOL SUPERINTENDENT.**—Responsibility for the administration and management of the schools and for the supervision of instruction in the district shall be vested in the district school superintendent as the secretary and executive officer of the district school board, as provided by law.

(4) **SCHOOL PRINCIPAL OR HEAD OF SCHOOL.** Responsibility for the administration of any school or schools at a given school center, for the supervision of instruction therein, and for providing leadership in the development or revision and implementation of a school improvement plan required by s. 1001.42(18) shall be delegated to the school principal or head of the school or schools in accordance with rules established by the district school board.

History.—s. 38, ch. 2002-387; s. 25, ch. 2004-41; s. 8, ch. 2008-108.

1001.33 Schools under control of district school board and district school superintendent.—Except as otherwise provided by law, all public schools conducted within the district shall be under the direction and control of the district school board with the district school superintendent as executive officer.

History.—s. 39, ch. 2002-387; s. 28, ch. 2003-391; s. 9, ch. 2006-74.

A. District School Boards

- 1001.34 Membership of district school board.
 1001.35 Term of office.
 1001.36 District school board member residence areas.
 1001.361 Election of board by districtwide vote.
 1001.362 Alternate procedure for the election of district school board members to provide for single-member representation.
 1001.363 District school board members to represent entire district.
 1001.364 Alternate procedure for election of district school board chair.
 1001.365 Votes by district school board chair and district school board members.
 1001.37 District school board members shall qualify.
 1001.371 Organization of district school board.
 1001.372 District school board meetings.

- 1001.38 Vacancies; how filled.
 1001.39 District school board members; travel expenses.
 1001.395 District school board members; compensation.
 1001.40 District school board to constitute a corporation.
 1001.41 General powers of district school board.
 1001.42 Powers and duties of district school board.
 1001.4205 Visitation of schools by an individual school board or charter school governing board member.
 1001.421 Gifts.
 1001.43 Supplemental powers and duties of district school board.
 1001.432 Inspirational message.
 1001.44 Career centers.
 1001.451 Regional consortium service organizations.
 1001.452 District and school advisory councils.
 1001.453 Direct-support organization; use of property; board of directors; audit.

1001.34 Membership of district school board.

(1) Each district school board shall be composed of not less than five members. Each member of the district school board shall be a qualified elector of the district in which she or he serves, shall be a resident of the district school board member residence area from which she or he is elected, and shall maintain said residency throughout her or his term of office.

(2) A district school board may modify the number of members on its board by adopting a resolution that establishes the total number of members on the board, which may not be less than five, and the number of members who shall be elected by residence areas or elected at large. The resolution must specify an orderly method and procedure for modifying the membership of the board, including staggering terms of additional members as necessary. If the resolution is adopted, the district school board shall submit to the electors for approval at a referendum held at the next primary or general election the question of whether the number of board members should be modified in accordance with the resolution adopted by the district school board. If the referendum is approved, election of additional school board members may occur at any primary, general, or otherwise-called special election.

History.—s. 41, ch. 2002-387; s. 15, ch. 2014-39.

1001.35 Term of office.—District school board members shall be elected at the general election in November for terms of 4 years.

History.—s. 42, ch. 2002-387.

1001.36 District school board member residence areas.—

(1) For the purpose of electing district 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 district school board divided into five district areas, with two district large, or the district school board member case, the residence seven inclusive and nearly as practicable.

(b) For those school district school board member determined by resolution of district school board.

(2) Any district school board member that it deems necessary school board member the district school board shall be made only in change that would affect any incumbent member during the term.

(3) Such changes resolutions spread upon school board, shall be of the circuit court, and in a newspaper published after the adoption of newspaper published the county courthouse certified copy of this the Department of State

History.—s. 43, ch. 2002-387.

1001.361 Election

Notwithstanding any charter, the election of board shall be by vote entire district in a not chapter 105. Each member shall, at the resident of the district area from which the candidate who qualifies on the ballot shall be school board member resides. Each qualified entitled to vote for school board member from each district school who receives the highest election shall be elected.

History.—s. 44, ch. 2002-387.

1001.362 Alternating district school board single-member representation

(1) This section shall be as "The School District Representation Law of

(2) District school to office in accordance 1001.36 and 1001.36

(a) For those school districts, which have seven district school board members, the district may be divided into five district school board member residence areas, with two district 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 district 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.

(2) Any district school board may make any change that it deems necessary in the boundaries of any district school board member residence area at any meeting of the district school board, provided that such changes shall be made only in odd-numbered years and that no change that 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 district school board, 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. 43, ch. 2002-387.

1001.361 Election of board by districtwide vote.

Notwithstanding any provision of local law or any county charter, 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. Each candidate for district school board member shall, at the time she or he qualifies, be a resident of the district 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 shall be listed according to the district 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 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.

History.—s. 44, ch. 2002-387.

1001.362 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 elected to office in accordance with the provisions of ss. 1001.36 and 1001.361, 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 district 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. 1001.36, each of whom shall be elected only by the qualified electors who reside in the same residence area as the member.

(b) If the district 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. 1001.36, each of whom shall be elected only by the qualified electors who reside in the same residence area as the member, and two of the seven members shall be 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. 1001.36, each of whom shall be 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 district 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 district 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 district 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 district school board member elected prior to or at the election that approves any revision as permitted herein shall be affected in his or her term of office. The resolution adopted by the district 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. 45, ch. 2002-387.

1001.363 District school board members to represent entire district.—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.

History.—s. 46, ch. 2002-387.

1001.364 Alternate procedure for election of district school board chair.—

(1) The district school board chair shall be elected in accordance with the provisions of s. 1001.371 unless a proposition calling for the district school board chair to be elected as an additional school board member by districtwide vote is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in subsection (2).

(2) A proposition calling for the district school board chair to be elected by districtwide vote shall be submitted to the electors of the school district at any primary, general, or otherwise-called special election in either of the following manners:

(a) The district school board may adopt a formal resolution directing that the proposition be placed on the ballot; or

(b) The electors of the school district may petition to have the proposition placed on the ballot by presenting to the district 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 school district as of the date the petitioning electors register as a political committee as provided in subsection (3).

(3) 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.

(4) Each petition form circulated shall include the following wording:

As a registered elector of the school district of _____ County, Florida, I am petitioning for a referendum election to determine whether the district school board chair shall be elected by districtwide vote.

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 after that date.

(5) Upon the filing of the petitions with the district school board by the chair of the committee, the district 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.

(6) 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.

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

(8) 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).

(9) If a proposition calling for the election of the district school board chair is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in subsection (2), the district school board chair shall be elected by districtwide vote.

(10) The vice chair shall be elected by the majority vote of the electors as provided in s. 1001.371.

(11) This section shall apply to any district school board having a population of 800,000 and 900,000 as of the date of the last decennial census.

History.—s. 2, ch. 2006-25

1001.365 Votes and district school board chair.—The district school board shall elect its members acting in accordance with the provisions of this section. For purposes of this section, the district school board chair and district school board members acting in any capacity, action taken by the district school board shall be subject to a vote on which the majority of the electors satisfies the requirements of this section. The "majority" vote or a "special election" vote applies only to those districts having a population of 800,000 and 900,000 as of the date of the last decennial census.

History.—s. 3, ch. 2006-256



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

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:

Section 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 of the Governor~~ unless otherwise required by the State Constitution or general law, be filled by a special election; 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. If less than one hundred twenty (120) days remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by appointment of the Board of County Commissioners.

Appointment process: The county commissioners shall advertise for interested applicants that qualify for the requirements of the vacant office. The applications must be submitted within 2 weeks of the advertisement of the vacancy. A Special Commission meeting shall be scheduled to occur 1 week following the application deadline. Applicants and members of the public shall be permitted to comment during the public comment portion of the appointment agenda item of the Special Meeting. Each commissioner will review the applicants and score them from one to ten. Staff will tabulate the ranking scores of the applicants and fill the vacancy with the applicant receiving the highest total number ranking. In the event of multiple applicants receiving the

highest ranking, the County Commissioners will vote as a board on the remaining applicants by simple majority. The effective date of office shall be immediately following the vote.



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: June 23, 2022

AGENDA ITEM NUMBER: Proposal 10 -Public Hearing 2

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.

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



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

Staff Contact:

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Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

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2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

SUMMARY EXPLANATION & BACKGROUND CONTINUED:



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

Staff Contact:

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AMENDED PROPOSAL 19

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 and to add school board members to the list of county officers subject to recall as provided by general law. Additional numbers and words are underlined; deleted numbers and words 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 and school board members 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, or school board member,~~ 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 the correction made changing 4.2 to 4.1.1.

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.

The amended proposal adds school board members to all of the other county constitutional officers subject to recall election in the manner provided by general law for removal of a county commissioner; i.e., sheriff, tax collector, supervisor of elections, property appraiser, clerk of the circuit court.

Proponent emphasizes that Amended Proposal 19 (i.e. this proposal) is completely different from school board recall proposal 2 by proponent which was withdrawn from the Commission's consideration by 6-5 vote at the May 12, 2022 meeting of the Charter Review Commission. The defeated proposal 2 was six typed single-spaced pages in length and most importantly included only malfeasance as the statutory ground available for recall listed in § 100.361(2)(d) Fla. Stat. and included up to three votes on motions of school board members as grounds for recall. Contrarily, this Amended Proposal 19 merely consists of adding these three words to the 5.2 Recall section of the Brevard County Charter: "school board members".

Proponent submits that the best argument in support of Amended Proposal 19 is the following excerpts from Commission attorney Paul Gougelman's May 12, 2022 letter to the

Florida Attorney General seeking an Attorney General Opinion on whether the Brevard County Charter may be amended to add a provision permitting a recall of school board members:

ISSUE: May the Brevard County Charter be amended to add a provision permitting a recall of Brevard County School Board Members? Would such a provision be violative of Article VIII, Section 1(g) of the Florida Constitution which provides that, “[c]ounties 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”?

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II

Recall in Florida - The Florida Recall Statute

As noted above, the only provision in Florida law for recall elections is Section 100.361, Florida Statutes. The statute specifies that it applies to the governing body of either a charter county or a municipality. §100.361(1), Fla.Stat.⁵ Furthermore, the statute is intended to provide a uniform statewide process for recall,⁶ and the statute automatically applies to all municipalities and charter counties whether or not they have adopted recall provisions in their charters or by ordinance.⁷ In essence, the Legislature sought to deal with the problem existent at that time, namely providing a uniform process for the recall of city councilmembers (and charter county commissioners).

The process was intended to be difficult. Most importantly, recall is only permitted in one of seven circumstances: Malfeasance;⁸ Misfeasance;⁹ Neglect of duty; Drunkenness; Incompetence; Permanent inability to perform official duties; and Conviction of a felony involving moral turpitude.¹⁰ §100.361(2)(d), Fla.Stat.¹¹

III

Authority for Local Charters to Provide for
Recall of Constitutional Officers such as
School Board Members

A

The strongest legal basis to permit a local government, such as a charter county, to provide in their charter for the recall of School Board Members is the concept of home rule.

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Home rule was granted to municipalities and to counties to deal with the explosion of local bills being submitted each session of the

Legislature. For example, the year before the new Florida Constitution was adopted, 1967 Laws of Florida reveal that there were 1428 local laws adopted and 1068 general laws and laws of local application adopted. Something needed to be done to stop the explosion in local bills and to permit local governments to deal efficiently with local issues.

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There is no express preemption of the subject of recall to the state, either by general act or the Florida Constitution.¹³ In fact, the Florida Division of Elections in DE 94-14 (Aug. 1, 1994) answered the following question from the Brevard County Charter Commission: May a county charter lawfully provide a method for the recall of county officers?

The Division stated:

Your . . . question is answered in the affirmative. A county charter may provide a method for the recall of county officers. However, the provisions of Section 100.361, Florida Statutes, are applicable to all chartered counties and will prevail over any conflicting provisions in such charters to the extent of the conflict.

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Thus, charter county home rule should be found to grant Brevard County the legal ability to allow the people of Brevard County to amend their Charter to permit the recall of Brevard County School Board Members, especially given that the delegation of home rule to Brevard County is extremely broad. (emphasis supplied by proponent).

B

Powers in the Brevard County Charter Must Be
Construed to Be Very Wide and Liberal

Not only is the power of home rule for a charter county broad, but the Brevard County Charter reinforces the concept in Section 1.3. This section, entitled “Construction”, provides that “[t]he powers granted by this Home Rule Charter shall be construed liberally in favor of charter government.” This section 1.3 dictates that the proposals of the CRC to amend the Charter are to be construed liberally in favor of charter government, which would mean the enhancement of the powers of charter government. **This would include recall election of school board members.** (emphasis supplied by proponent)

C

School Board Members Are County Officers

A county charter has control over so-called constitutional or county officers. For example, in Article VIII, Section 1(d) of the Florida Constitution, there are specific provisions relating to the election of the constitutional or county officers, including in each county a [sheriff](#), a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court. No provision of the Constitution or state statute prohibits providing for the recall of the constitutional or county officers.

It should also be noted that school board members are county or constitutional officers. The Florida Supreme Court in In re Advisory Opinion to the Governor, 626 So. 2d 684 (Fla. 1993), answered a request from the Governor for an advisory opinion stating that a school board member is a county officer for purposes of the Governor's suspension authority under article IV, section 7(a) Florida Constitution. The Court reached this opinion even though the Constitution does not say that a school board member is a county officer.

The Court made it clear that the term "county officer" in the Constitution applies to not only the [sheriff](#), a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court but also to county commissioners and school board members. The Court, at 689, stated:

While an argument can be made that the suspension provision in article IV, section 7, should be construed narrowly and that school board members should be characterized as "district" rather than "county" officers, we find that a broader construction is appropriate. We reach this conclusion because it is apparent that the public looks at both school board members and county commissioners as "county" officials, who have equivalent power and authority, albeit in different local governmental spheres. We recognize that article VIII, section 1(d), defines certain "county officers." We note, however, that the county officers defined in section 1(d) could not have been intended to be the only "county" officers subject to the suspension provisions of article IV, section 7, because that provision does not include county commissioners within the definition of a

county official. The duties and governing authority of county commissioners are set forth in article VIII, section 1(e). School board members' duties and authority are found in article IX, sections 4(a) and 4(b), which provides that "each county shall constitute a school district" and that school board members shall "operate, control, and supervise" the schools within the county (emphasis added). . . .

D

At Least One County has Adopted Provisions
for Recall of School Board Members

A review of the 19 charter county charters indicates that least one other county, Duval, has adopted provisions for the recall of school board members.¹⁶

SERVICE OF PROPOSAL

This proposal was sent by e-mail on May 20, 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.

Compare Results

Old File:

Proposal to correct scrivners error in section 5.2 recall.pdf

1 page (108 KB)
4/29/2022 11:33:05 AM

versus

New File:

amended proposal to correct scrivners error in section 5.2 recall.pdf

5 pages (138 KB)
5/20/2022 1:01:46 PM

Total Changes

21

Content

6 Replacements
14 Insertions
0 Deletions

Styling and Annotations

1 Styling
0 Annotations

[Go to First Change \(page 1\)](#)

AMENDED PROPOSAL 19

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 and to add school board members to the list of county officers subject to recall as provided by general law. Additional numbers and words are underlined; deleted numbers and words 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 and school board members 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, or school board member,~~ 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 the correction made changing 4.2 to 4.1.1.

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.

The amended proposal adds school board members to all of the other county constitutional officers subject to recall election in the manner provided by general law for removal of a county commissioner; i.e., sheriff, tax collector, supervisor of elections, property appraiser, clerk of the circuit court.

Proponent emphasizes that Amended Proposal 19 (i.e. this proposal) is completely different from school board recall proposal 2 by proponent which was withdrawn from the Commission's consideration by 6-5 vote at the May 12, 2022 meeting of the Charter Review Commission. The defeated proposal 2 was six typed single-spaced pages in length and most importantly included only malfeasance as the statutory ground available for recall listed in § 100.361(2)(d) Fla. Stat. and included up to three votes on motions of school board members as grounds for recall. Contrarily, this Amended Proposal 19 merely consists of adding these three words to the 5.2 Recall section of the Brevard County Charter: "school board members".

Proponent submits that the best argument in support of Amended Proposal 19 is the following excerpts from Commission attorney Paul Gougelman's May 12, 2022 letter to the

Florida Attorney General seeking an Attorney General Opinion on whether the Brevard County Charter may be amended to add a provision permitting a recall of school board members:

ISSUE: May the Brevard County Charter be amended to add a provision permitting a recall of Brevard County School Board Members? Would such a provision be violative of Article VIII, Section 1(g) of the Florida Constitution which provides that, “[c]ounties 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”?

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The process was intended to be difficult. Most importantly, recall is only permitted in one of seven circumstances: Malfeasance;⁸ Misfeasance;⁹ Neglect of duty; Drunkenness; Incompetence; Permanent inability to perform official duties; and Conviction of a felony involving moral turpitude.¹⁰ §100.361(2)(d), Fla.Stat.¹¹

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It should also be noted that school board members are county or constitutional officers. The Florida Supreme Court in In re Advisory Opinion to the Governor, 626 So. 2d 684 (Fla. 1993), answered a request from the Governor for an advisory opinion stating that a school board member is a county officer for purposes of the Governor's suspension authority under article IV, section 7(a) Florida Constitution. The Court reached this opinion even though the Constitution does not say that a school board member is a county officer.

The Court made it clear that the term "county officer" in the Constitution applies to not only the sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court but also to county commissioners and school board members. The Court, at 689, stated:

While an argument can be made that the suspension provision in article IV, section 7, should be construed narrowly and that school board members should be characterized as "district" rather than "county" officers, we find that a broader construction is appropriate. We reach this conclusion because it is apparent that the public looks at both school board members and county commissioners as "county" officials, who have equivalent power and authority, albeit in different local governmental spheres. We recognize that article VIII, section 1(d), defines certain "county officers." We note, however, that the county officers defined in section 1(d) could not have been intended to be the only "county" officers subject to the suspension provisions of article IV, section 7, because that provision does not include county commissioners within the definition of a

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SERVICE OF PROPOSAL

This proposal was sent by e-mail on May 20, 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 amendments 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 rejected 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 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:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

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:

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	Specifie s Non- Interfe- rence Clause	Administra- tive 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(l))	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 Administration; 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 .
Palm Beach	<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:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

Staff Contact:

Melissa Brandt

Telephone Number:

(321) 301-4438

Email Address:

Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

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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:

AGENDA ITEM NUMBER:

SUBJECT:

PETITIONER CONTACT:

REQUESTED ACTION:

SUMMARY EXPLANATION & BACKGROUND:

Staff Contact:

Melissa Brandt

Telephone Number:

(321) 301-4438

Email Address:

Melissa.Brandt@brevardfl.gov



2021-2022

CHARTER REVIEW COMMISSION AGENDA REPORT

MEETING DATE: June 23 2022

AGENDA ITEM NUMBER: Proposal 24 Public Hearing 2

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.

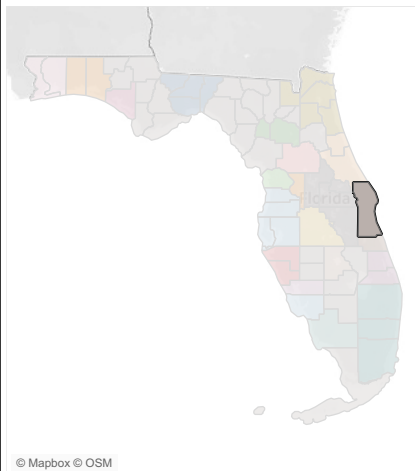
Wages and Housing Costs by MSA

The following dashboard shows the median hourly wage necessary to afford housing in Florida overall as well as in each metropolitan statistical area (MSA).

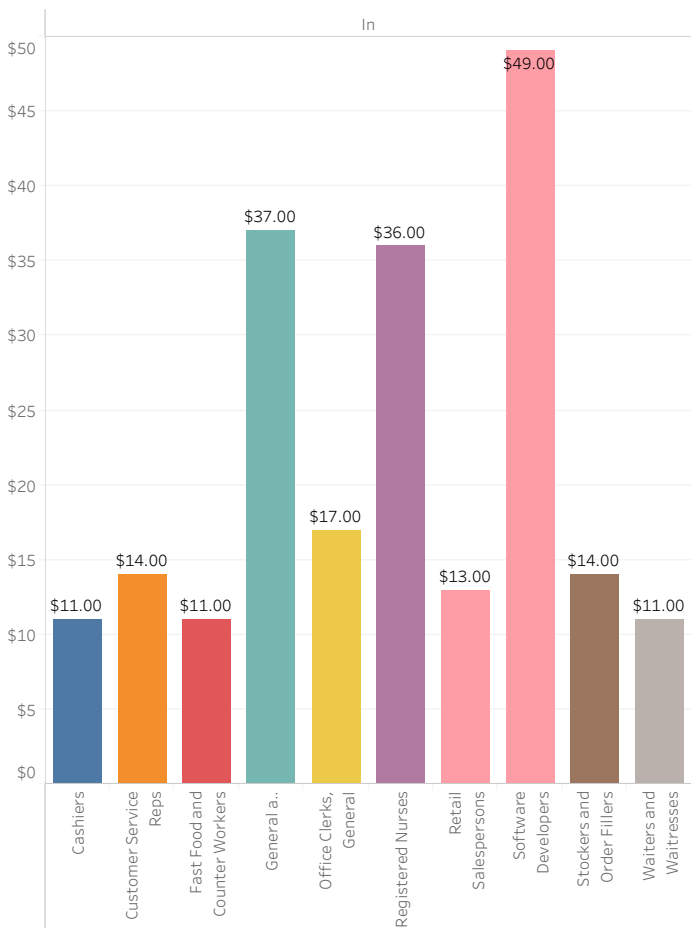
Click an MSA on the map below to see how the 10 most common jobs in the area stack up compared to the median rent (from the 2020 5-Year ACS) or median mortgage (Home Values from the Florida Realtors 2021 Year-End Report, assuming a 4.83% interest rate and 10% down).

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

