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Jt. Focus Administration Staff and BCC sub-Committees

CHARTER REVIEW COMMISSION
ADMINISTRATION STAFF SUB-COMMITTEE/ BOARD OF COUNTY COMMISSIONERS SUB-COMMITTEE
JOINT FOCUS MEETING
Minutes of Meeting
April 21, 2010

A joint meeting of the Administration Staff Sub-Committee and the Board of County Commissioners sub-Committee of the Charter Review Commission was held at the Administration Complex, Room 106-B, Port Charlotte, Florida.

Roll Call:
The following members were present:
*Kevin Russell, Paula Hess, Ken Doherty, Johnny Vernon, Bill Dryburgh, , Tom Rice, Frank Weikel, Julie Mathis (*arriving 4:20 p.m.)
Absent members: *Michael Grant, Bill Weller (Alternate)*

Robert Berntsson, Esq., counsel for the Charter Review Commission, was also present.

Call to Order:
The meeting was called to order at 4:00 p.m. EDT by *Ken Doherty*

Agenda Items:

1. Discuss the issue of a proposed change in the Executive Branch of the County Government:
Ken Doherty opened the meeting by re- stating that the purpose of this combined sub-Committee was to approach the topic of changing the form of government, per previous discussions. *Mr. Doherty* said that information had been received from Orange County in the form of a c/d and the data contained thereon had been reviewed by Mr. Berntsson. From that information, Mr. Berntsson had prepared a synopsis of the transition, attached to these Minutes as Attachment "A". Mr. Berntsson outlined this for the members present, adding additional information he had found. He noted that once Orange County established itself as a Home Rule Charter county they determined that Florida Statute 125.84 no longer applied. Mr. Berntsson elaborated that they interpreted the Statute to say that when you create a Charter County you must have one of the three structures, but once you become a Charter County you are no longer limited to those. *Ken Doherty* asked if this had been litigated and Mr. Berntsson replied that a great deal of litigation took place but that was not one of the issues that he found. Mr. Berntsson said that the change in government took effect after the election in November 1990. He said at that time there were three at-large Commissioners who had not been up for re-election and three single member district elected Commissioners. He stated a suit was filed by a group that said they did not have equal representation, but the Court upheld the Charter. Mr. Berntsson indicated that there were also other suits file by the Property

Appraiser and Tax Collector for other issues but the Charter withstood those challenges as well. *Paula Hess* and *Ken Doherty* asked for and received confirmation that the Mayor in Orange County votes on all issues, not just in the event of a tie. Mr. Berntsson mentioned another Amendment changed the title from County Chairman to County Mayor. In response to a question from *Paula Hess,* Mr. Berntsson said that it did not appear that the duties of that office were changed. Mr. Berntsson added that the Orange County Administrator is appointed by the Mayor and confirmed by the Board, and the salary is set by the Board after recommendation by the Mayor. *Ken Doherty* observed that he liked that interface. Mr. Berntsson said it raised the concern for him that the Board might not confirm. Mr. Berntsson mentioned a Court case he found that says the single issue ballot question does not apply to the Charter. *Ken Doherty* read the actual language that went to the voters in **Orange County** in 1988: " Shall the Orange County Charter be revised increasing the number of County Commissioners from five to six; providing for the election of each Commissioner only by the voters in their Commission District; creating the office of County Chairman elected by all County voters and limited to two consecutive terms; specifying Legislative and Executive functions, powers and duties; revising the initiative process allowing Municipal ordinances to prevail over County ordinances; and making other technical and related changes ..." Discussion followed and *Kevin Russell* observed that the problem with putting everything in one question is that you may lose the whole Amendment if one component is not popular. Mr. Berntsson said that they also put the single district issue on the same ballot as a separate Amendment, presumably not wanting it to be defeated for the reason mentioned by *Mr. Russell. Paula Hess* said that she thought the question of the change in government should stand alone on the ballot but some of the housekeeping Amendments could be consolidated. *Frank Weikel* indicated that he would not support this change being put on the November ballot, adding that he had notified the Commissioners as well as some of the Constitutional Officers to read all of the posted CRC Minutes as this is a major change and he wants them to be fully informed. *Mr. Weikel* indicated that he wanted the public to be educated. *Ms. Hess* observed that there would be time between August and the November election to inform the voters. *Ms. Hess* also asked for clarification on comments from various County Commissioners about things being dysfunctional. *Mr. Russell* asked if the Commissioners had said that the form of government was dysfunctional or that the Board was dysfunctional. *Johnny Vernon* replied from his recollection, and *Mr. Weikel* read from his notes. *Ken Doherty* replied that he had attended that meeting and his observation from Commissioners' comments was that the system was working but not working well. *Bill Dryburgh* repeated his observations of the positive changes in Orange County once the transition took place, noting that he experienced these firsthand. *Mr. Doherty* added that the Orange County model appeared to be a good one and he was considering arranging a meeting that involved a conference call with people involved from Orange County. In response to *Mr. Weikel's* concern about educating the public, *Ms. Hess* observed that most study by the citizens would take place after the referendum questions are developed. *Mr. Weikel* replied that there would be considerable press coverage during a two year study period. Mr. Berntsson cautioned that this cannot be placed before the voters as a

concept, he emphasized that all of the details have to be known. He mentioned that Orange County had gone to six Commissioners in implementing this change, and that would be a different concept to present to the voters because of the additional expense. *Kevin Russell* added that the issue of single member Districts also needs to be considered, pointing out that there is a decision tree process involved that will take time to work through. *Mr. Dryburgh* mentioned that demographics in Orange County played a part in the decision to add a Commissioner. In discussion there was concern that a two year study would put the issues on the ballot during a Presidential election year. Mr. Berntsson again referred to litigation in Orange County, indicating that although the County prevailed it could be expected that there will be legal challenges to a change of this magnitude. Mr. Berntsson and *Mr. Doherty* added that they plan to have every issue included in the legal ads (Notice) to be placed for the Public Hearings so that the Public can be fully informed. Mr. Berntsson said that there could still be a legal challenge if a voter was not able to obtain the exact ballot language from the Notice. He expressed his concern that there was insufficient time at this point. *Julie Mathis* added that a significant portion of the population has now left for the summer, and they would not have the opportunity to see the Notices or attend hearings. *Johnny Vernon* noted that a lot of people from the North, from experience, would be opposed to voting for a powerful Executive.

Mr. Doherty inquired whether there would be a consensus to report back to the full membership the proposal to put a question on the ballot asking to reconstitute the Charter Review Commission for a period of two years. *Mr. Russell* asked for clarification if this reconstitution was only for the purpose of studying the proposed change or if the language would be "including but not limited to ...". Mr. Berntsson referred to **Section 6.05** of the **Pinellas County** Reconstitution, saying he would use that as a model. Mr. Berntsson also mentioned a new State Statute which prohibits the use of public funds for lobbying on behalf of (or against) an issue, but does allow the use of public funds to educate the voter. *Paula Hess* asked if all of those present could foresee being able to serve on the extended CRC, and all replied affirmatively. *Mr. Doherty* called for a motion and *Ms. Hess* moved that this joint focus sub-committee present to the full Board the proposal to reconstitute the Charter Review Commission for the purpose of studying the change of structure, including all related considerations. Mr. Berntsson said that this CRC could choose to select its own appointments, and *Mr. Rice* agreed that some authority should be left with this CRC to replace members. *Ms. Hess* asked for and received confirmation that the Board was obliged to provide funding if the reconstitution question was accepted by the voters. *Mr. Weikel* said that he could certainly support this proposal. A vote was taken and all members present signified their unanimous acceptance by saying "aye".

2. Public Input: None

3. Commission Comments: Mr. Berntsson referred to the question of funding, saying that there was general language in the present Charter that would support this. *Bill Dryburgh* said that the Constitutional Officers should be advised that these changes do not affect them at all. *Mr. Dryburgh* also pointed out that Babcock might create a new District when it gets underway. *Mr. Rice* asked for and received confirmation that the recommendation would include

appropriate wording that the CRC would have the power to appoint replacement members. *Mr. Weikel* thanked Ms. *Mathis* for pointing out that a portion of the population has left for the summer. He also mentioned the cost of litigation if challenges were presented, emphasizing the importance of careful attention to detail. *Mr. Weikel* also asked about an issue brought up earlier in the meeting that said Orange County determined that State law did not apply to a Charter County. Mr. Berntsson replied that the interpretation was not that broad, that they were talking about laws that apply to a single ballot question. *Mr. Doherty* pointed out that the Orange County mayor votes on all issues, not just in the even of a tie, which is another example different from the State Statute 125. Mr. Berntsson said that if there was a challenge there may be separate representation for the CRC and for the County, as the interests of the two bodies may be different. *Mr. Vernon* asked Mr. Berntsson if he would represent the CRC in the event of a challenge and Mr. Berntsson pointed out that technically the CRC would have been dissolved by that time. *Mr. Russell* said that the only similar history in Charlotte County was the 3% cap which was challenged, indicating that the County did spend a lot of money in their defense and it was ultimately determined to be against general law. *Ms. Hess* asked if the members were indemnified individually if the CRC was sued. Mr. Berntsson replied that typically even if a Commissioner is sued they seek reimbursement, and he would argue that under the language that requires the Board to pay the expenses of the CRC that would be covered.

4. Adjournment: The meeting was adjourned at 4: 55 p.m.

Kenneth W. Doherty, Chairman

ATTACHMENT 'A'

Orange County
Charter County transition from appointed administrator to elected County Mayor

-Initial Orange County Charter approved by voters November 1986, effective 1/1/87. Consisted of 5 elected commissioners, appointed county administrator.

-Charter Review commission appointed August 1987 proposes change to elected county chairman, 6 elected county commissioners in 1988, approved by voters November 1988, to take effect after election in November 1990.

-Redistricting committee appointed by BCC to create 6 equal commission districts prior to elections in 1990.

-Currently have county mayor, elected every 4 years, 2 term limit and county commissioners, 4 year terms, 3 elected every 2 years, 2 term limit.

-In addition, appointed county administrator, appointed by county mayor and confirmed by board. Salary set by commission after recommendation by the county mayor.