

CHARTER REVIEW COMMISSION

January 12, 2022

A Charter Review Commission (CRC) Meeting was held at the Murdock Administration Center, 18500 Murdock Circle, Room B106, Port Charlotte, Florida at 3:00 P.M. on January 12, 2022.

Call to Order

The Meeting was called to order at 3:00 p.m. by Chairman William J. Dryburgh.

Roll Call

The following CRC members were present:

William C. Abbatematteo

Patricia W. Aho

Jeffrey K. Anlauf

Donna L. Barrett

Donna C. Peterman

Cherie A. Burnett

Steve A. Drake

William J. Dryburgh

Donald McCormick

Theresa H. Murtha

Richard J. Pitz

Adam James Riley

William B. Schafer

Cyril F. Schrage

Bob White

Alternates

Rob Humpel, 1st Alternate

The following members were absent: Suzanne Graham, Alternate and James Coalwell, Alternate.

Others present: Robert H. Berntsson, Attorney.

Citizen's present:

Leonard Guckenheimer, David Kesselring, and Betsy Calvert (Sun Newspaper).

I. Approval of Minutes:

MOTION WAS MADE BY RICHARD PITZ AND SECONDED BY BOB WHITE TO APPROVE THE MINUTES OF DECEMBER 8, 2021.

MOTION CARRIED: 15:0

II. Citizen Input on Agenda Items:

a. Citizen Leonard Guckenheimer presented a written document to the Commission that recommends replacing county commissioner county-wide voting with single district voting. He recommends replacing Sec. 22. Legislative Branch A. *the county commission* with:

“There shall be one (1) commissioner for each of the five (5) county commissioner districts established pursuant to general law, and **each commissioner shall be elected only and exclusively by the electors within the commissioner’s home district.**”

Additional comments by Mr. Guckenheimer included: 1) County-wide voting negates the votes of a district if a candidate wins in his home district but loses the race in other districts. This is undemocratic by overriding the will of the voters in the affected district; 2) Single-district voting is used at every other governmental level; 3) Single-district voting would reduce campaign costs and increase voter turnout; 4) We are in a housing boom. Will Charlotte County government and the Board of County Commissioners be able to keep up with the demands?

Citizen David Kesselring readdressed topics he previously has brought forward to this Commission and commented upon: Single District Voting, Term Limits, Elected County Administrator and Elected County Attorney (as well as limiting the power of both positions), Elected Charter Review Commission, and Citizen Bill of Rights. In conclusion, Mr. Kesselring referenced a recent newspaper article concerning this Commission and stated he did not agree with changing the reporting status of the Director of Economic Development (who currently reports to the Board of County Commissioners), to reporting to the County Administrator. The County Administrator has too much power already and it should not be increased.

III. Presentation of the Constitutional Officers Final Report with the following recommendations:

Chair William Schafer commenced his report by recommending that the Commission Members read the posted minutes of the “Interviews” with the Constitutional Officers (abbreviated in the committee’s report) as the answers to the questions were very informative and indicated the quality of Constitutional Officers we have in Charlotte County. Mr. Schafer also stated that he did not agree with the inclusion of the topic of MSBU’s in this report and advised if any further discussion ensued that a qualified representative such as Budget Director Gordon Burger be asked to speak to this Commission regarding movement of money from one account, not replacing it and the catastrophic effect it would have for the County. In addition, Mr. Schafer indicated that this was not a question that was asked of the Constitutional Officers but was brought up as part of a discussion.

Mr. Schafer asserted that a Constitutional Officer, an Airport Authority Representative and a Sheriff were all previously run against for office by a non-resident of Charlotte County. This Commission owes an obligation to candidates for us to be able to weigh in on “residency” (only). The County needs to make sure we do not have non-residents running for office. Our Committee was informed that Supervisor of Elections, Paul Stamoulis, is barred from deciding on residency by state law. Therefore, there is no one to enforce residency in the Charter, there is no enforcement process or group to handle a raised issue.

The Constitutional Officers Subcommittee puts forth the following ideas and suggestions for discussion:

Enforcement of the Charter: *The duties of the Charter Review Commission should be amended in the Home Rule County Charter keeping the commission active until the next Charter Review Commission is established in six years. In the event there is a question of interpretation and/or enforcement of the current Home Rule County Charter, the remaining members of the Charter Review Commission will interpret/enforce any said violation through the Charlotte County Attorney's Office. To include enforcement of Residency for all officials elected to office within the County. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court per Article III, Section 3.2.*

Brief discussion comments:

Member Barrett indicated that she was one hundred percent in agreement that we need some type of enforcement but was not sure of the legality and the cost of this suggestion. Attorney Robert Berntsson reported on his discussions with County Attorney Jeanette Knowlton that neither one felt it was appropriate for the County Attorney's Office to handle this matter. If this Amendment were to pass, the appropriate person to act would be the Attorney for this Charter Review Board. Chairman Dryburgh asked what is the feeling of the Commission? Member McCormick asked for more information – what is the life span of this group? Attorney Berntsson replied this would be a proposed Amendment to extend the Commission life out to six years until the next group is appointed. Attorney Berntsson also stated that the person running for office has the legal right to bring a lawsuit. Whether we think that is fair or not, that is the person with the vested interest in the situation. If we use the County or the Commission's attorney, then it is ultimately the citizens who are financing the cost of this legal battle. Mr. Schafer replied that he felt it is the County's responsibility as it is the County's Charter under which a person runs for office. Member Murtha agreed that there is a possible need to continue this Board, and not just for this issue of residency. Member Murtha suggested we investigate how other counties/cities in the country enforce their Charters and come up with something logical based upon that information.

Member Abbatematteo said he agreed in principle with an enforcement of residency but asked who verifies other qualifications for running for office? Since the County Attorney can bring suit for the County Commission, why can't the attorney do the same here? We don't need to keep this Commission going to interpret the Charter – the residency requirement is in black and white. Member Aho also agreed that we may need a way to continue this Commission and agreed that we may want to find a way to enforce our Charter even if what is proposed here is not the best way.

Attorney Berntsson cautioned Commission Members that you must have "standing" in the issue to file suit and that the practical action of filing in Circuit Court, getting a hearing and ruling from a judge would have to happen in a very short timeframe, (from filing to election ballots being printed- maybe three months). This might be a resolution that does not ultimately solve anything. Member Pitz agreed that we need a definite method to deal with this issue. We need to enforce the Charter– it is a good decision.

Member Barrett raised the issued of legal ramifications of preventing someone for running for office, especially if it turned out they were qualified. Member Abbatematteo also raised up the possibility of making it a crime or fine to violate the Charter. Member McCormick stated if this body was in force for the six years, we would have our own attorney and if a violation occurred, we would empower our attorney to file suit. Member Schrage asserted that enforcement is not

our job. Our job is to review the Charter every six years and make recommendations to the voters. That's it. Our term is over. We have no enforcement authority. Why can't our County Attorney file suit against someone not qualified to run? Attorney Berntsson replied the County Attorney is hired to provide legal support to the Board of County Commissioners and the County. The County Attorney cannot enforce laws in general. The County Attorney may have a conflict of interest if the action is against a County Commissioner. The Charter Review has its own attorney. By Charter, the County Attorney is not the Attorney for the Charter Commission. The Charter Review Commission is an independent body, and its Attorney should act on behalf of that body.

Member Humpel identified that "Enforcement of the Charter" seems to be a bigger question/issue than just residency. How do any of the provisions of the Charter that are violated get enforced? Some of the sections of the Charter have enforcement mechanisms (like for non-interference), others do not. Attorney Berntsson replied that just like in the Constitution, enforcement is through a lawsuit if you feel your constitutional rights have been violated. You need to look at this as if needing a remedy to stop the action. **End Enforcement discussion.**

Member Aho, a member of the Constitutional Officers subcommittee, who, with the majority of the committee members, asked to have the following recommendation inserted into the report led this portion of the discussion:

The Burden of the Non-Ad-Valorem fees from MSBU's. *The burden from the fees imposed by MSBU's is increasing and there is a need to review whether there are options for reducing or lessening this burden. While no mechanism was suggested for reducing or lessening the burden of the MSBU's, it is suggested that a formal review process may provide options and suggestions for addressing this burden.*

Member Aho explained that this topic is not for a Charter Amendment but for a "Recommendation" to our Board of County Commissioners in the Final Report. Two of the Constitutional Officers spoke about MSBU fees at the subcommittee interviews. They mentioned that the burden of the MSBU non advalorum fees is increasing. We are not recommending any mechanism but only that it is time to review the increasing burden. We are suggesting the Commissioners undertake a formal review process of the MSBU's as was recommended to the Commissioners in the 2016 Charter Review Commission Report. Member McCormick also added that while there is some relief to the taxpayer for advalorum taxes, this is not the case for MSBU fees.

Member Barrett reported that MSBU's were discussed in their Administrative Staff Subcommittee and the committee recommended more education by staff to the citizens regarding MSBU's; what they are and how they are operated as most residents do not understand these fees.

Member Murtha declared that she feels this is a sound recommendation and that it should be passed on to the Board of County Commissioners. **End MSBU Discussion.**

IV. Old Business:

a. Sub-committee Reports:

i. Administrative Staff: Chair Barrett asked for a Roll Call of Subcommittee Members. Present were Donna Barrett, Cyril Schrage, Cherie Burnette, and Rob Humpel, Alternate.

MOTION WAS MADE BY CHERIE BURNETTE AND SECONDED BY CYRIL SCHRAGE TO APPROVE THE ADMINISTRATIVE STAFF SUBCOMMITTEE MINUTES OF NOVEMBER 18, 2021.

MOTION CARRIED: 3:0

MOTION WAS MADE BY CYRIL SCHRAGE AND SECONDED BY CHERIE BURNETTE TO APPROVE THE ADMINISTRATIVE STAFF SUBCOMMITTEE MINUTES OF DECEMBER 8, 2021.

MOTION CARRIED: 3:0

MOTION WAS MADE BY CYRIL SCHRAGE AND SECONDED BY CHERIE BURNETTE TO APPROVE THE ADMINISTRATIVE STAFF SUBCOMMITTEE FINAL REPORT, DATED DECEMBER 8, 2021.

MOTION CARRIED: 3:0

ii. Board of County Commissioners: Chair Abbatematteo asked for a Roll Call of Subcommittee Members. Present were William Abbatematteo, Jeffrey Anlauf, Donna Peterman, and Richard Pitz.

MOTION WAS MADE BY RICHARD PITZ AND SECONDED BY DONNA PETERMAN TO APPROVE THE BOARD OF COUNTY COMMISSIONERS SUBCOMMITTEE MINUTES OF JANUARY 5, 2022.

MOTION CARRIED: 4:0

MOTION WAS MADE BY DONNA PETERMAN AND SECONDED BY RICHARD PITZ TO APPROVE THE BOARD OF COUNTY COMMISSIONER SUBCOMMITTEE FINAL REPORT, DATED JANUARY 5, 2022.

iii. Constitutional Officers: Present were William Schafer, Patricia Aho, Don McCormick, Bob White. Alternate Suzanne Graham was absent.

MOTION WAS MADE BY PATRICIA AHO AND SECONDED BY WILLIAM SHAFER TO APPROVE THE CONSTITUTIONAL OFFICERS SUBCOMMITTEE MINUTES OF DECEMBER 13, 2021.

MOTION CARRIED: 4:0

iv. Other Boards and Agencies: Chair Murtha asked for a Roll Call of Subcommittee Members. Present were Theresa Murtha, Steve Drake and Adam Riley. Alternate James Coalwell was absent.

MOTION WAS MADE BY ADAM RILEY AND SECONDED BY STEVE DRAKE TO APPROVE THE OTHER BOARDS AND AGENCIES SUBCOMMITTEE MINUTES OF DECEMBER 8, 2021.

MOTION CARRIED: 3:0

CHAIR MURTHA ASKED FOR AND RECEIVED CONFIRMATION BY CONSENSUS THAT ALL SUBCOMMITTEE MEMBERS WERE IN AGREEMENT WITH THE OTHER BOARDS AND AGENCIES FINAL REPORT, DATED DECEMBER 8, 2021.

V. New Business:

a. Approval of Big W Law Firm Statement for Services provided: January 1, 2022 Statement for Services in the amount of \$562.50.

MOTION WAS MADE BY DONNA BARRETT AND SECONDED BY DONNA PETERMAN TO APPROVE THE BIG W LAW FIRM'S STATEMENT FOR SERVICES IN THE AMOUNT OF \$562.50

MOTION CARRIED 15:0

b. Review of Charter Review 4th Quarter 2021 Expense Report with total expenses from April-December, 2021 of \$13,210.83.

The Commission reviewed the 4th Quarter Expenses and the 2021 Expense Report which were approved by Consensus.

c. Change of Venue for the February 9, 2022 Charter Review Commission Meeting.

The Commission agreed by consensus to hold the February 9, 2022 meeting at the Charlotte Harbor Event and Conference Center, Punta Gorda, Florida.

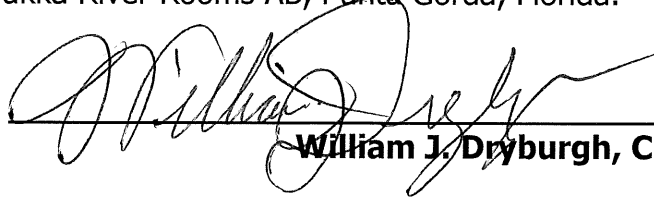
VI. Discussion:

Member Abbatematteo inquired about "Next Steps" in the Commission's work. Chairman Dryburgh announced that the Administration Staff Subcommittee and the Board of County Commissioners Subcommittee will present their Final Reports at the February 9, 2022 meeting. The Other Boards and Agencies Subcommittee will present their report at the March 9, 2022 meeting. Following the last Subcommittee's Final Report presentation, all items will be debated. After this process the list of items will all be voted upon as the last action. Once the final list of proposed Charter Amendments is approved, Attorney Robert Berntsson will write the Amendment Language which will then be approved by the Commission. The last three meetings, (May 11th, May 25th, and June 8th) will be Public Hearing Meetings to hear comments on the proposed Amendments. Once the Ballot Questions are decided and voted upon there will be no more public comments for consideration for Charter Amendments. We need to be finished as a Commission by June 8, 2022, so that the Final Report can be finalized and submitted to the Board of County Commissioners at their July 12, 2022 meeting.

VII. ADJOURNMENT:

MOTION WAS MADE TO ADJORN THE MEETING BY CONSENSUS AT 4:10 P.M.

The next meeting will convene on February 9, 2022, at 3 p.m. at the Charlotte Harbor Event and Conference Center, 75 Taylor Street, Myakka River Rooms AB, Punta Gorda, Florida.



William J. Dryburgh, Chair

DATE ADOPTED: _____ 2/9/2022 _____