

**Leon County
2009-2010 Citizen Charter
Review Committee Meeting
February 11, 2010**

The Leon County 2009-2010 Citizen Charter Review Committee (CRC) met on February 11, 2010, in the Commission Chambers with Committee members Christopher Holley (Chair), Marilyn Wills, Catherine Jones, Rick Bateman, Lance de-Haven Smith, Dave Jacobsen, Larry Simmons, Tom Napier, Jon Ausman, Lester Abberger, Ralph Mason and Chuck Hobbs attending. Members absent and excused were Sue Dick, Donna Harper and Linda Nichol森. Also attending were County Administrator Parwez Alam; County Attorney Herb Thiele; Deputy County Administrator Vincent Long; Patrick Kinni Assistant County Attorney, Special Projects Coordinator Shington Lamy; Facilitator Kurt Spitzer, and Deputy Clerk Rebecca Vause

I. Call to Order

Chairman Holley Called the Meeting to Order at 10:05 a.m.

II. Invocation and Pledge

The Invocation was provided by Chuck Hobbs. Chairman Holley then led the Pledge of Allegiance.

III. Roll Call

The Roll was conducted by Shington Lamy who confirmed that a quorum was present.

IV. Approval of Minutes of Previous Meeting (February 4, 2010)

Rick Bateman moved, duly seconded by Tom Napier, to approve the February 4, 2010 CRC Meeting Minutes. The motion carried unanimously.

Mr. Ausman asked that his absence from the February 4, 2010 CRC meeting be reflected in the minutes as an excused absence. *Mr. Bateman moved, duly seconded by Tom Napier, to reflect Mr. Ausman's absent at the February 2010 meeting as an excused absence. The motion carried unanimously.*

V. Reports of Chairman

Chairman Holley reviewed the public hearing schedule and announced that they would be held at 5:30 p.m. in the Commission Chambers. It was also established with County Attorney Thiele that the last public hearing is scheduled for March 18; and so long as there were no substantive changes made as a result of public comment, amendments could be adopted at the public hearing.

VI. Presentations by Invited Guests/Consultant

None

VII. Remarks of Interested Citizens

Speakers

- Jim VanRiper, Chair, Leon County Human Relations Advisory Committee, appeared and indicated that while appreciative of the CRC's efforts to place protections into the Charter, he opined that a written "policy" would be a better mechanism able to address human rights issues. He added that the initiative could also invite hostility from groups in extreme opposition.
- Dennis Murphy, spoke on the human rights policy issue and stressed that he was expressing his personal opinion and did not represent any group or organization. He

spoke at length on the proposed language and submitted that the Leon County Human Relations Advisory Committee was in a better posture to understand and vet this issue prior to making recommendations to the County Commission than the approach being considered by the CRC.

VIII. Unfinished Business

None

IX. New Business

1. Decision Agenda
 - a. Audit Clarification

Chairman Holley provided a history of the issue. He stated that the Supreme Court of Florida has agreed to take up the Collier case and a new opinion will be issued probably within the next year. He noted that the Alachua County case, which has been relied on for interpretation by the other counties for over 30 years ago. Chairman Holley offered that the Supreme Court's ruling could invalidate language provided in the Charter, should it go beyond the Court's ruling.

Clerk of Court, Bob Inzer, was invited to address this issue. He offered that the issue before the Court is whether or not the current statute provides for the Clerk to have an independent audit function. He opined that there is nothing to preclude the County from including the additional internal audit function in its Charter. There were differing opinions offered by Mr. Inzer and Mr. Thiele on whether a change in the Clerk's status from a Constitutional Officer to a Charter Officer would be necessary to accomplish the proposed amendment. (Mr. Thiele offered that the Charter amendment would require a change in status.)

It was articulated that the color-coded language was reflective of the County Attorney's efforts to accurately reflect the current process utilized.

Mr. Inzer provided considerable information and clarification to the Committee. The Clerk's remarks included, but were not limited to:

- Clerk's office has operated an independent audit function for 17 years;
- An Audit Committee of five is appointed by the County Commission and Clerk's Office (3 from Clerk/2 Board) to develop an annual workplan;
- Audits are designed to be independent and to depoliticize the process;
- Board does not review audit plan prior to its adoption by the Audit Committee;
- Language proposed by the County Attorney codifies the way in which he (the County Attorney) interprets the process should be operated, but clearly does not.
- The Audit Committee's proposed language would limit the scope of audits to those recommended by the Committee and would preclude performance audits unless requested by the Board.

Mr. Lamy clarified that Attachment 3 of the member's packet was the version supported by the Clerk's Office.

Mr. Ausman established with Mr. Inzer that the Clerk's Office has conducted audits without permission from the County Commission for 17 years. In addition, Mr. Ausman ascertained that the language proposed by the County Attorney provides more restrictions than is found in most Charters.

Jon Ausman moved, duly seconded by Tom Napier, to approve the language provided by the Audit Committee (page 12-15 of attachment 3).

Mr. Bateman expressed a need to clarify the Clerk's function; however caution was needed when expanding and defining rights of job function. He asserted that it was not the Clerk's role to audit the performance of Commission and County staff. He offered that the language provided by the County Attorney seems to clarify the function of what the County Attorney believes that the staff and the Commission have the legal right to do, as reflected in the "blue" version of the language.

A substitute motion was made by Rick Bateman, duly seconded by Cathy Jones, to accept the original language provided to the CRC by the County Attorney.

Chairman Holley asked the County Attorney to provide the differences in the two motions on the floor.

County Attorney Thiele conveyed that, in his opinion, the "blue" language provides the current state of the law in Florida (since 1977); pertaining to what the Clerk, in his audit function can and cannot do unless invited to do so. He opined that the language submitted by the Audit Committee is a modification to the current State of the law in Florida. He added that it is the County's position that the language proposed by the Audit Committee is a concession by the County to change the state of the law and they are not prepared to do that. He commented on the positive relationship currently between the County and the Clerk's Office.

County Administrator Alam added that the upcoming ruling by the Supreme Court will affect all counties. He repeated that that the County has an excellent working relationship with the Clerk's Office.

Mr. Napier voiced support for Mr. Ausman's motion as it is important for the County to have an "independent watchdog committee".

There continued to be discussion on this issue.

Mr. Inzer clarified that charter language was not needed unless the CRC desires to have a more restrictive internal audit function than provided for by law.

Chairman Holley advised caution as this was a complicated issue. He reiterated that the upcoming Supreme Court ruling will clarify this issue and the next Charter Committee can amend the charter based on the new ruling. Chairman Holley stated that he would not support either motion as he is not comfortable enough to move in either direction.

Mr. Bateman submitted that the County Attorney has done the research and clarify the state of the law. He offered that his motion supports the County Attorney's clarification of the state of the law.

Mr. Ausman spoke in opposition to the substitute motion. He stated that the committee can 1) do nothing 2) can have language that severely limits the ability of the clerk, or 3) have an independent auditor that provides a degree of comfort. He added that taking no action and waiting for the Courts ruling was not a good idea.

The substitute motion failed 3-9 (Jon Ausman, Lance De-Haven Smith, Chuck Hobbs, Chris Holley, David Jacobsen, Ralph Mason, Tom Napier, Larry Simmons and Marilyn Wills in opposition; Sue Dick, Donna Harper and Linda Nichol森 absent).

The original motion carried 7-5 (Chris Holley, Lester Abberger, Rick Bateman, Lance deHaven-Smith, and Catherine Jones in opposition; Sue Dick, Donna Harper and Linda Nichol森 absent).

b. Utility Advisory Board

Mr. Spitzer advised that two draft languages were provided; the original (draft #1) is more simple and draft #2 is a more detailed version. He added that the Advisory Board would be advisory in nature.

There was discussion on the make-up of the Advisory Board, with concern expressed by the inclusion in the language of three appointments to the Advisory Board by the City Commission. County Administrator Alam shared that he had recommended that this language be included in an attempt to make sure the Board was balanced.

Ms. Jones commented that she was in favor of City appointments; however asked that the language be clarified that should the City Commission refuse to make the appointments, those appointments would revert to the County Commission. Ms. Jones articulated that she would like the issue to move forward to public hearing as she would like to hear what the public has to say. She stated for the record that should the City of Tallahassee not come to the table that would speak volumes for what they think about citizens and their opinions.

Rick Bateman moved, duly seconded by Ralph Mason, to move the proposed language in Draft #2 to public hearing. The motion carried 10-2 (Chris Holley and Tom Napier in opposition; Sue Dick, Donna Harper and Linda Nichol森 absent).

c. Limitations on Campaign Contribution

Mr. Spitzer shared that the language provided is verbatim from the Sarasota County Charter with the exception of the limitation amount as directed by the CRC of \$250.

Lester Abberger moved, duly seconded by Rick Bateman to move the proposed language to public hearing. The motion carried 10-2 (Chuck Hobbs and Chris Holley in opposition; Sue Dick, Donna Harper, and Linda Nichol森 absent).

d. Human Rights Policy

Mr. Spitzer provided that the content of the proposed language was exactly as previously presented to the CRC, however, now included the addition of “creed and sexual orientation”.

Mr. Bateman clarified that he intended the charter language to compliment the ordinance being developed by the County’s Human Rights Committee. He opined that this action was morally right and fundamentally correct and the voters of Leon County would support the amendment.

Rick Bateman moved, duly seconded by Jon Ausman, to move the proposed language to public hearing.

Mr. Mason suggested that the language include gender identity; however, suggested that an ordinance was the better way to address this issue.

A friendly amendment was offered by Ralph Mason to include "gender identity" in the language. The friendly amendment was accepted.

At the request of the Committee, Mr. VanRiper provided an explanation of the term "gender identity".

The CRC by majority vote accepted the friendly amendment. (Cathy Jones opposed).

The motion as amended was withdrawn by Mr. Bateman.

Rick Bateman moved, duly seconded by Jon Ausman, to accept the language as proposed by staff with the addition of "gender identity" and move to public hearing.

Lance de-Haven Smith stated that although concerned about this issue, he could not support the motion. He opined that the CRC was taking on too much and this action could potentially create more problems.

Ms. Jones proclaimed that no one should be discriminated against and was not opposed to the inclusion of the term; however, she would not vote for the motion as she did not have a clear understanding of the term gender identity.

Mr. Ausman voiced support for the motion and pointed out the importance of protecting human rights. He cited that this type language exists in the Broward County Charter and to his knowledge has not resulted in inordinate legal issues being raised. He submitted that the voters of Leon County would support the amendment.

The motion failed 6-6 (Lance de-Haven Smith, Chris Holley, Dave Jacobsen, Cathy Jones, Ralph Mason, Tom Napier in opposition; Sue Dick, Donna Harper and Linda Nichol森 absent).

Mr. Ausman moved that due to the 6-6 vote the issue be deferred until a meeting of the full committee. The motion was seconded by Rick Bateman. Chairman Holley pointed out that there were no more meetings scheduled, only public hearings. No vote was taken on this motion.

An overview of CRC actions was provided by Chairman Holley. Issues moved to public hearing include:

- Audit Clarification
- Countywide Environmental Standards
- Employment Policy for County Administrator
- Non-Interference Clause
- Petition Thresholds/Petition Prohibitions
- CRC Membership/Structure
- Utility Advisory Committee
- Campaign Contribution Limitations
- TDC Language (adopted 2/4/10)
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Chairman Holley announced that the first public hearing scheduled for February 18 at 5:30 p.m. would be chaired by Marilyn Wills.

2. Staff/Consultant Discussion

Chairman Holley mentioned that staff have suggested that, after the conclusion of the public hearings, a workshop be scheduled with the County Commission to present issues that the CRC will bring forward. Staff proposed the workshop be held on April 13, 2010, 12:00 – 1:30 p.m. and Chairman Holley asked that members advise Shington Lamy of their availability.

X. Adjournment with Day Fixed for Next Meeting

The meeting was adjourned at 12:00 p.m.

LEON COUNTY:

ATTEST:

Christopher Holley, Chairman

Bob Inzer Clerk of Court
Leon County