

**LEON COUNTY
2009-2010 CITIZEN CHARTER
REVIEW COMMITTEE MEETING
JANUARY 28, 2010**

The Leon County 2009-2010 Citizen Charter Review Committee (CRC) met on January 28, 2010, in the Commission Chambers with Committee members Christopher Holley (Chair), Marilyn Wills, Catherine Jones, Chuck Hobbs, David Jacobsen, Donna Harper, Jon Ausman, Lance deHaven-Smith, Larry Simmons, Linda Nichol森, Ralph Mason, Rick Bateman, and Sue Dick in attendance. Absent were Lester Abberger and Tom Napier. Also attending were County Attorney Herb Thiele, Deputy County Administrator Vincent Long, Assistant County Attorney Patrick Kinni, Facilitator Kurt Spitzer, Special Projects Coordinator Shington Lamy, and Deputy Clerk Rebecca Vause.

I. Call to Order

Chairman Holley Called the Meeting to Order at 5:35 p.m.

II. Invocation and Pledge

The Invocation was provided by Larry Simmons, who 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 (January 21, 2010)

Jon Ausman moved, duly seconded by Rick Bateman, to approve the January 21, 2010 meeting minutes. The motion carried 13-0 (Lester Abberger and Tom Napier absent).

V. Reports of Chairperson

- Commented that at a previous meeting he had suggested that Frank Bruno of Volusia County be invited to speak to the CRC on issues of Board structure and leadership. He noted that these issues had already been addressed by the CRC and a vote taken to not move forward with these topics; therefore, Mr. Bruno's appearance was not necessary.

VI. Presentations by Invited Guests/Consultant

none

VII. Remarks of Interested Citizens

- Sonia Fancher, 3693 Corinth Dr., asked that the Committee take action to prohibit elected officials and staff of local government from serving on future Charter Review Committees and that a seat not be reserved for special interests or leadership of a political party.
- Letha Marshall, via e-mail, expressed support for partisan elections. Note: a copy of Ms. Marshall's comments will be placed in the official record.

VIII. Unfinished Business

I. Issues Agenda

a. Citizen Utility Advisory Board

Kurt Spitzer stated that the CRC would need to provide further direction as to the purpose and objective of the Advisory Board.

Cathy Jones recalled that Commissioners Akinyemi and Proctor brought the concept of an advisory board to the attention of the CRC and offered that county residents who are served by city utilities have no recourse in resolving utility disputes. She added that the proposed Utility Board could also listen to and talk about utility issues, i.e., complaints, renewable energy opportunities and the future of energy for the County.

Rick Bateman offered that the Utility Board, although advisory in nature, would provide a consolidation of voices and give disenfranchised citizens a mechanism to be heard on a larger scale.

Chairman Holley shared that this issue is being debated statewide and questioned whether the Charter is the appropriate place for this issue.

Ralph Mason deemed appropriate as a Charter issue as it would allow citizens an opportunity to decide the need and appropriateness of a Citizens Utility Board.

There was concern expressed by Marilyn Wills that citizens would believe that the Utility Board has more power than it does and Ms. Harper regarding the vagueness of the Committees' charge.

Rick Bateman moved, duly second by Ralph Mason, to direct staff to bring back information, including models from other counties who have utility boards for the CRC's review and discussion.

Lance de-Haven Smith stated that he would support the concept of an advisory board, as Tallahassee's electric rates are a big issue to many residents. He opined that the CRC should be responsive as two County Commissioners asked that the issue be addressed.

Ms. Harper submitted that the Advisory Board should be comprised of individuals who are highly educated and highly trained in the issues they will be considering and making recommendations to the City about.

Ms. Harper offered a friendly amendment that staff be asked to include in its report 1) the charge of the committee, 2) who will make appointments; 3) criteria for serving and 4) the manner, form and substance of the recommendation and 5) to whom those recommendations would go. The friendly amendment was accepted by Mr. Bateman, who clarified that the intent of his motion was to have several models brought back that would address the areas raised by Ms. Harper.

The motion carried 10-3 (Chris Holley, David Jacobsen, and Linda NicholSEN in opposition; Lester Abberger and Tom Napier absent)

b. Campaign Contribution Limitation

Chairman Holley asked County Attorney Thiele to update the Board on this issue. Mr. Thiele asserted that his office maintains its position that campaign contribution limits are impliedly preempted by the Laws of the State of Florida.

Mr. Bateman although understanding of Mr. Thiele's opinion, pointed out that a Sarasota County Circuit Judge has disagreed with that opinion and ruled that limitations could be established and this ruling has not been appealed.

Larry Hobbs stated for the record, that he was vehemently against any further limitation on the rights of citizens, or a group of citizens, to express their opinions about a candidate through donations; as this would be a violation of the first amendment.

County Attorney Thiele responded to inquires from Ms. Wills about the pending Secretary of State case and Mr. Mason who asked for more information about the Alachua County/\$250.00 limit case.

Mr. Bateman asserted that the first amendment does not prohibit the limitation of the amount of contribution and declared that unlimited campaign contributions prohibits the majority of people from getting their voice heard.

Jon Ausman moved, duly seconded by Rick Bateman, to limit campaign contributions to individual candidates to \$250.00

Mr. Hobbs offered that campaign contributions allow the purchase of advertising and other campaign paraphernalia, which in turn provides voters the information they need to make informed decision about a candidate. He added that it is fundamentally wrong to tell an individual how much they can spend or donate in support of a candidate.

Chairman Holley suggested that the Committee should heed the advice of the County Attorney who has advised that state law preempts action on this matter.

The motion carried 8-5 (Sue Dick, Donna Harper, Chuck Hobbs, Chris Holley, Linda Nicholzen in opposition; Lester Abberger and Tom Napier absent).

c. Human Rights Policy

Ralph Mason referenced the establishment of the County's Human Rights Committee and asked that this issue be removed from consideration.

Ralph Mason moved, duly seconded by Rick Bateman, to remove the issue from consideration and allow the County's Human Rights Committee to make recommendation on this issue.

Mr. Ausman voiced opposition to withdrawal of the issue and felt it important to place protections such as people's rights and their ability to have equal housing, jobs, pay, opportunities, etc. in the County Charter. He indicated that he was willing to give voters a choice and not be afraid to move forward in areas like this.

Ms. Harper remarked that the community is very supportive of human rights and the time is right to put it in the County's Charter.

Mr. Mason agreed that the voters would support a human rights amendment; however he believed that the County's Human Rights Committee was better suited to address this issue.

Mr. Bateman asked the status of the Human Rights Committee. Mr. Thiele reported that the Committee has met 3-4 times and their charge is not only related to issues of non discrimination but they are to be a sounding board for all matters of inequality or discrimination. He added that no language has been proposed by the Committee as yet. Vince Long provided that human rights language included in other County Charters was very broad and added that sample language from the Broward and Pinellas County Charters was included in the CRC's packet.

Ms. Dick noted that she was concerned about duplication of efforts by the creation of another advisory board.

Rick Bateman withdrew his second of the motion. The motion was then seconded by David Jacobsen.

A substitute motion was offered by Rick Bateman and duly seconded by Jon Ausman, to add language to the Charter which states: Protection of Human Rights – The County shall establish provisions, for protection of citizen human rights from discrimination based upon religion, political affiliation, creed, race, color, age, gender, disability, sexual orientation, familial status, marital status, or national origin by providing and ensuring equal rights and opportunities for all citizens of Leon County. The motion carried 10-3 (Chris Holley, Ralph Mason, David Jacobsen in opposition; Lester Abberger and Tom Napier absent)

Mr. Mason recommended that Jim VanRiper be invited to discuss this issue with the CRC. No objection was received to Mr. Mason's suggestion and he will contact Mr. VanRiper to schedule a time for him to meet with the Committee.

d. Independent/Advisory CRC

Lance de-Haven Smith indicated that he did not want to spend too much time contemplating this issue, if it is not endorsed by the Committee.

Mr. Spitzer reminded the CRC of its previous actions/discussions on options that are available for consideration.

Ms. Harper offered that she would be unable to support the move to an Independent body under the CRC's current structure; as there is insufficient time allotted for the CRC to develop an issue well enough to be placed directly onto the ballot.

Mr. Bateman agreed that there is insufficient time given to the CRC to consider and recommend changes to the Charter. He opined that, given enough time to research and deliberate issues the CRC should be able, by a super majority vote, to place an issue on the ballot and voiced support for the development of such language.

Ms. Dick shared that she is working with staff on language to begin the charter review process earlier and to address comments and concerns expressed by CRC members on the makeup and charge of the CRC.

Lance de-Haven Smith moved, duly seconded by Jon Ausman, to adopt the "hybrid" approach currently utilized by Lee County which requires: 1) nine of 15 affirmative votes by the CRC to transmit an amendment to the county commission for acceptance or rejection, or 2) an affirmative vote of 12 of 15 members to place an issue directly on the ballot.

Mr. de-Haven Smith acknowledged that this will come back to the Committee with detailed language including committee structure, etc.

Mr. Bateman requested a friendly amendment to include discussion on convening the committee earlier and for a longer period of time. The friendly amendment was accepted by Mr. de-Haven Smith.

Ms. Harper established with Mr. de-Haven Smith that the intent of the motion is for staff to bring back a detailed proposal on the process indicated by the CRC.

The motion, as amended, carried 10-1 (David Jacobsen in opposition; Chuck Hobbs and Ralph Mason out of Chambers; Lester Abberger and Tom Napier absent)

Mr. Spitzer suggested that at the two issues 1) Composition of CRC and 2) Independent/Advisory CRC be merged and agendaed for the meeting on February 4, 2010. The suggestion was agreed to by the Committee.

IX. New Business

Chairman Holley pointed out that the Committee was entering into the Decision Process and that those items agreed to at this point will go to public hearing. He asked for the members' assistance to ensure that the language that is presented at the public hearing is as close as possible to what will be placed on the ballot. However, it was articulated that the Committee is very interested in receiving public input and comment.

Jon Ausman requested that the Committee schedule time at a future meeting to discuss unitary elections.

There was discussion on the appropriateness of Mr. Ausman's request.

Jon Ausman moved, duly seconded by David Jacobsen, to ask the County Attorney to explain what the unitary ballot is and its legality. The motion carried 7-5 (Rick Bateman, Sue Dick, Cathy Jones, Chris Holley and Marilyn Wills in opposition; Lester Abberger, Tom Napier and Chuck Hobbs absent).

County Attorney Thiele explained that the placement of party affiliations on ballots of a non partisan election is statutorily prohibited. He shared that Duval County/Jacksonville has created a unitary system that they acknowledge would be prohibited today; however it was created in 1992 and thus grandfathered in. Mr. Thiele opined that this is not an option for Leon County.

1. Decision Agenda

a. Functional Consolidation of Growth Management

Chairman Holley stated that draft language has not been provided. He asked Vince Long, Deputy County Administrator, to provide background on the topic.

Mr. Long provided a brief overview of the County's functional consolidation efforts. He articulated that although the Charter cannot effectuate a functional consolidation of Growth Management; a non-binding Charter amendment would signal to the community strong support for such an endeavor. He referenced the June 9, 2009 Budget Discussion Item that was provided in the Committee's packet, which exemplifies and articulates the County's efforts in this process. Mr. Long offered that it was within the CRC's authority to consider adoption of uniform countywide environmental ordinances and remarked that the Comprehensive Plan articulates this need. He added that the City's CRC recommended the functional consolidation of Growth Management and that a Memorandum of Understanding was approved by the County Commission on July 14, 2009, which has been forwarded to the City. He concluded that the Committee has an opportunity to do something that would in essence result in a functional consolidated Growth Management through unifying environmental regulations countywide.

Mr. Bateman commended staff for providing this direction and expressed support to give authority to the County Commission to pass countywide regulations related to the environment.

Mr. Bateman moved, duly seconded by Lance de-Haven Smith, to direct staff to come back with language to expand minimal stormwater standards and gives the County Commission authority to pass Countywide environmental ordinances. The motion carried 12-0 (Larry Hobbs, Lester Abberger and Tom Napier absent)

b. Tourist Development Council Structure

Mr. Spitzer summarized the draft language.

Cathy Jones moved, duly seconded by Sue Dick, to accept the draft language as presented and schedule for public hearing. The motion carried 12-0 (Chuck Hobbs, Lester Abberger and Tom Napier absent).

c. Audit Clarification

Chairman Holley shared that he had received a letter from Bob Inzer, Clerk of Court, asking that this issue be deferred until the February 4, 2010 CRC meeting.

Rick Bateman moved, duly seconded by Donna Harper, to table discussion of this issue until the February 4, 2010 CRC Meeting.

Ms. Jones offered a friendly amendment to discuss each constitutional office, their role within the County and the possibility of bringing Constitutional Officers under the County. She opined that this issue warranted discussion especially in light of current fiscal conditions.

Mr. Bateman accepted the friendly amendment. Donna Harper as the seconder of the motion did not accept the friendly amendment.

County Attorney Thiele intervened and advised that the Committee has a motion to continue a matter on the agenda; a substantive issue such as changing the constitutional officer's classification is not germane to the motion to continue the item on the agenda. He stated that a separate motion would need to be made.

A substitute motion was made by Ralph Mason to postpone this issue to the February 4, 2010 CRC meeting. The motion was duly seconded by Jon Ausman. The motion carried 11-1 (Rick Bateman in opposition; Chuck Hobbs, Lester Abberger and Tom Napier absent).

d. Petition Thresholds

Chairman Holley advised that draft language had been provided. He summarized that the Committee had approved thresholds of seven percent countywide and five percent within districts.

Jon Ausman moved, duly seconded by Dave Jacobsen, to accept the draft language as presented and schedule for public hearing.

Mr. Bateman expressed a concern that the language is not repeated in both Ordinance and Citizen Petition Sections of the Charter.

A substitute motion was made by Rick Bateman and duly seconded by Donna Harper, to continue the item to allow time for the County Attorney's Office to draft language which incorporates the new percentages in both Ordinance and Citizen Petition Sections of the Charter. The motion carried 12-0 (Chuck Hobbs, Lester Abberger and Tom Napier absent).

X. OTHER ISSUES

Chairman Holley reviewed agenda items for next week's meeting:

- Countywide Standards (Stormwater and Environmental)
- Hire/fire policy – county administrator
- Non-interference clause
- Clarification of Petition Prohibitions
- Independent/Advisory CRC (hybrid concept)
- Clerk Audit Function
- Revised Petition Threshold Language

Chairman Holley requested that the “timeline” be revised and distributed.

Mr. Ausman announced that he would be unable to attend the February 4 meeting.

Ralph Mason moved, duly seconded by Rick Bateman, to consider amending the by-laws to allow for discussion of the County Constitutional Officers. The motion failed 3-9 (Jon Ausman, Lance de-Haven Smith, Sue Dick, Donna Harper, Chris Holley, Dave Jacobsen, Linda Nicholzen, Larry Simmons, Marilyn Wills in opposition and Chuck Hobbs, Lester Abberger and Tom Napier absent).

XI. Adjournment with Day Fixed for Next Meeting

The next meeting of the Citizen Charter Review Committee is scheduled for Thursday, February 4, 2010 at 11:30 a.m. in the Commission Chambers.

The meeting was adjourned at 7:45 p.m.

LEON COUNTY:

ATTEST:

Christopher Holley, Chairman

Bob Inzer, Clerk of Court