

Final Report

Columbia County

Charter Review Commission

2011-12

prepared by

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INTRODUCTION

This Report is submitted as part of the work of the second Columbia County Charter Review Commission. The Charter Review Commission (CRC) was appointed by the Columbia County Board of County Commissioners in June of 2011 pursuant to Section 8.4 of the Columbia County Charter.

The Charter was adopted by the voters of Columbia County in November of 2002. It operates like a “constitution” for the County, establishing the structure, powers and duties of the County officers and branches of government. Additionally, the Charter requires that a CRC be appointed by the Board of County Commissioners every eight years.

After their appointment, the CRC conducted an organizational meeting to select a chair and vice-chair. The CRC subsequently adopted operating rules. They also identified issues to be examined, adopted a work plan to study issues and hear testimony from the public and elected officials, and make recommendations to the public for revisions to the charter.

The 15-member CRC operated independently of county government. Its mission was to review the Charter of the county, the operation of county government and the ways in which they might be improved or reorganized through revisions to the charter. The CRC adopted six tentative amendments to the charter that were reviewed at three public hearings. After the third and final Hearing, the CRC voted to send **XX** of the tentative amendments to the November 2012 ballot for the consideration and vote of the county’s electorate.

The Charter Review Commission conducted 10 meetings and three public hearings to receive input from members of the public, civic leaders and local officials. They served without compensation. Members of the CRC are listed below.

Columbia County Charter Review Commission

2011-12

Koby Adams, Chair

Bettye Lane, Vice Chair

Jack Berry

Audrey Bullard

Rocky Ford

Ozell Graham

Walt Graham (*replaced David Roundtree*)

Nathan Morgan

David Morse

Zimmie Petty (*replaced Dean Taylor*)

Glynnell Presley

Dave Roundtree (*resigned September 26, 2011*)

Kim Skinner

Dean Taylor (*resigned March 29, 2012*)

Sheree Vann

Ray Walker

John Willis

Staff

Kurt Spitzer of KSA Governmental Consultants, Tallahassee, provided consulting services for the CRC. Legal Counsel to the CRC was Mark Watts of Cobb and Cole, Daytona Beach. Minutes and other records were kept by Deputy Clerk Sandy Markham. The liaison to the CRC from the Board of County Commissioners was Lisa Roberts, Assistant County Administrator.

Bylaws

During the early stages of its work, the Charter Review Commission adopted Roberts Rules of Order to govern its meetings and decision processes. The CRC also voted to impose additional requirements as relates to its internal procedures.

The adopted Bylaws established procedures as to how issues for discussion were identified; whether they were to receive further examination; were to be placed on the Hearing schedule; and, whether they would be sent to the Board of County Commissioners for placement on the November 2012 ballot.

The CRC decided to require an affirmative vote of at least two-thirds of its membership present, with a minimum of eight affirmative votes, to send tentative amendments to the three Hearings for public comment.

Likewise, the CRC also required an affirmative vote of two-thirds of its membership present, with a minimum of eight affirmative votes, to send final amendments to the November 2012 ballot where the electorate will have the opportunity to vote for or against each of the amendments.

ISSUES CONSIDERED

Early in the process, staff provided the Charter Review Commission with a summary overview of each of the possible general revisions to service delivery mechanisms or changes to the county structure that were available for consideration.

After discussion, issues identified for further discussion were included in a “Decision Agenda.” Items identified for inclusion in the Decision Agenda were added to the remaining balance of the Charter Review Commission’s schedule and more detailed briefing documents were prepared by staff for the review and consideration of the CRC.

Subjects identified for the “Issues Agenda” and reviewed by the CRC included the following:

1. Termination of the County Administrator – The procedure that the Board of County Commissioners is required to follow to terminate the County Administrator. A proposed amendment is recommended in this policy area.
2. Appointment and Termination of County Department Heads - The procedures that the County Administrator and the Board of County Commissioners follow to retain and terminate Department Heads. A proposed amendment is recommended in one of these policy areas.
3. Citizen Initiative – The methods by which the electorate may propose ordinances by petition, including subject areas that such ordinances may concern. After discussion, no recommendations for amendments are made in this policy area.
4. Term Limits for County Commissioners - Limitations on the number of consecutive times a County Commissioner may seek re-election to his or her seat on the County

Commission. While there was interest in discussing this issue by some of the CRC members, cases in front of Florida appellate courts on term limits were pending at the time that the CRC was meeting and existing case law indicated that such charter provisions were not consistent with the Florida Constitution and therefore illegal. No recommendations for amendments were proposed for public Hearings. (Note that shortly after the first Hearing of the CRC, the Florida Supreme Court issued a decision reversing its previous rulings and upheld such provisions in certain county charters.)

5. Districting System for the BCC - The Board of County Commissioners currently consists of five Commissioners elected only by the voters within single-member districts. While charters can provide for a different number of Commissioners and a wide variety of districting schemes, the system in Columbia is the result of an Order of a Federal Court. After examining the Court's Order to confirm that a charter amendment could be considered by the CRC and public, a recommendation is proposed to add two Commissioners to the Board of County Commissioners that would be elected "countywide" by all of the voters of Columbia County.
6. Redistricting Process – The CRC examined alternative methods by which the districts of the Board of County Commissioners are revised every 10 years. A proposed amendment is recommended in this area.
7. Supplemental Public Notice – Pursuant to a request from the County Manager's office, the CRC discussed the efficacy of the recently-adopted amendment requiring the use of the Internet to post meeting agendas and back-up information on the County's website, in addition to those notice requirements that already exist in Florida Statutes. A recommendation for a charter amendment deleting the new requirement is proposed.
8. County Attorney – The CRC examined whether the Office of the County Attorney should remain an elected position or become an appointed position that is hired and fired by

the Board of County Commissioners, as it is in all other Florida counties. A proposed amendment is recommended in this area.

After discussion and debate, hearing testimony at numerous public meetings and three public hearings, the Charter Review Commission decided to recommend XX amendments to the Charter to the voters for their consideration and approval during the November 2012 general election.

ADOPTED RECOMMENDATIONS for REVISIONS to the CHARTER

The Charter Review Commission makes the following recommendations for amendments to the charter:

1. AMENDMENT #1 – Adds Two Commissioners to the Board of County Commissioners that are Elected by all Voters on a Countywide Basis and Provides for a Transition Plan

The Columbia County Charter currently provides for a five-member Board of County Commissioners elected from single-member districts. Under single-member districting systems, electors may vote only for the Commissioner residing in their district. Charters may provide for numerous alternative systems to elect members of the Board of County Commissioners.

Persons elected from single-member districts are more responsive to and reflective of the interests of their district. In Columbia County, such a districting system has allowed for the creation of a minority-access district.

However, while persons elected from single-member districts may be more responsive to the interests of their district, they may also be less responsive to the needs of the remaining areas of the county. Since most programs and budgetary decisions that a County Commission considers are delivered on a countywide basis, the CRC believes that it is important that some members of the governing body are elected by and reflect the interests of all areas of the County.

The CRC therefore recommends that two seats are added to the County Commission that are elected on an “at-large” or countywide basis, thus providing all of the electors

with the opportunity to vote for a total of three Commissioners: One from their single-member district and two countywide.

The recommended amendment would retain five single-member commission districts where the Commissioners are elected only by the voters of his or her district. Such district boundaries (including the minority-access district) would not be affected by the proposed amendment to the Charter.

Adding two members to the County Commission that are elected countywide strikes a balance between the advantages of the single-member and at-large districting systems, while not necessitating revisions to the boundaries of the current districts.

If approved by the voters in November of 2012, the additional Commissioners would first be elected in 2014. At that time, one seat would be elected for a term of two years and the other for a term of four years. Thereafter, each would be elected for a normal, four-year term.

2. AMENDMENT #2 – Establishes a Citizen Redistricting Advisory Committee to Make Recommendations Concerning Redistricting of the County Commission.

Redistricting of the County Commission is the process by which the principle of “one-person, one-vote” is furthered by adjusting district boundaries so that they are as nearly equal in population as is possible. It is a process that is primarily controlled by state and federal policy, and the final decision concerning redistricting is reserved to the Board of County Commissioners.

Redistricting must occur every ten years, during the first odd-numbered year after the U.S. Bureau of the Census completes the decennial census. Several factors are balanced

together in the redistricting process to preserve “communities of interest” and to develop boundaries that are easily understood by the voters. Such factors are considered in total, with equal population and preservation of the voting strength of the minority population within a district being the dominant criteria.

However within such confines, a charter may provide for supplementary procedures concerning the redistricting process and the CRC pursued options to move the process away from the BCC to the extent possible.

The proposed amendment creates an independent citizen advisory committee to make recommendations on new redistricting plans to the BCC for their approval or rejection. It shifts responsibility for making the initial decisions concerning new district boundaries away from the County Commission to an independent committee composed of electors of Columbia County who live in the county.

If approved by the voters, the amendment requires the BCC to appoint the Advisory Committee after receipt of the new census data. The Committee must have its first meeting prior to May 15th and is required to submit its first recommendation to the BCC by September. The County Commission may accept or reject that recommendation but if it rejects the recommendation, it must state its reasons for doing so in writing to the Committee.

If the County Commission rejects the initial recommendation, the Committee reconvenes and submits its next recommendation by October. The BCC may then accept, reject or modify the second recommendation and adopt a final recommendation prior to the end of the year.

The proposed amendment shifts responsibility for redistricting away from the County Commission to an independent body to the extent allowed by law, while recognizing

that the final authority and responsibility for redistricting rests with the Board of County Commissioners.

3. AMENDMENT #3 – Provides for an Additional Method for the Termination of the County Manager by the Board of County Commissioners

The Charter currently provides that the Board of County Commissioners may terminate the County Manager by a majority vote of the entire BCC that occurs during two regularly-scheduled, consecutive meetings of the Board. The recommended amendment adds an additional method: By a majority-plus-one vote of the entire Board that may occur during a single regular or special meeting.

Columbia County operates under the Commission-Manager form of government, where responsibility for policy-making is vested in the Board of County Commissioners and responsibility for implementing policy was vested in a professional manager, who is hired and fired based on qualifications and job performance.

An integral part of the Commission-Manager form of government is the separation of the administration of county government from political influence. Charters often contain provisions that further the policy of separation of the legislative and executive functions, such as Columbia's non-interference clause, which recognizes that it is the County Manager who directly supervises his or her employees and prohibits individual members of the BCC from giving instructions or directives to employees who report to the County Manager. Providing that a decision to terminate must occur during two regular meetings furthers the separation between the legislative and executive functions of the County and the independence of the County Manager.

An amendment to provide for termination by a majority vote during a single meeting of the Board was considered but rejected by the CRC.

The proposed amendment adds an alternative termination method. Although permitting the termination decision to occur during a single meeting, the vote required to make such a decision must be by a “super-majority” of the entire BCC.

4. AMENDMENT #4 – Deletes the Charter’s Requirement for Supplementary Public Notice using the Internet.

The Charter was amended in 2006 to provide for additional notice requirements using the Internet. The 2006 amendment requires that the agendas and backup information provided to the BCC be placed on the Internet or a successor media to the Internet. It also requires that similar notice is given for meetings of subordinate boards for which additional notice requirements (beyond the “Sunshine Law”) are already required by Florida Statutes, such as a Planning and Zoning Board or a Board of Adjustment.

Compliance with the new requirement (especially its provisions concerning backup information) has proven to be cumbersome and of questionable value. The proposed amendment repeals the revisions of 2006 while maintaining recognition that the BCC is still bound by the notice requirements of Florida Statutes and that the County Commission may supplement notice policies at any time by local ordinance.

5. AMENDMENT #5 – Deletes a Department Head’s Option to Appeal His or Her Termination by the County Manager to the County Commission

Department heads are employees “at will” in Columbia County who report to the County Manager. They are appointed, supervised and terminated (with or without cause) by the Manager.

However, a decision of the County Manager to terminate a department head may be appealed to the Board of County Commissioners and overturned pursuant to policy adopted by the Board. Provisions such as this are very unusual in Florida charter counties.

The CRC examined the issue of the Department Head’s right to appeal his/her termination. The CRC also discussed whether it would be preferable to require BCC confirmation of the County Manager’s nomination of a Department Head at the time of appointment.

After discussion on both issues - the right of a Department Head to appeal his or her termination to the BCC and a requirement for BCC confirmation of newly-appointed Department Heads – the CRC believed that the best policy was to provide the County Manager with the tools to build the senior management team of the County. A key feature of such a policy is the ability to retain and terminate senior department heads without the undue influence of the legislative body. If the BCC is dissatisfied with the performance of the County Manager or some aspect of the way in which county policies are being implemented, the option to terminate the County Manager always exists.

The CRC therefore recommends that the Department Heads’ ability to appeal a decision to terminate to the BCC be removed from the Charter. The CRC further recommends

that the Charter's current policy allowing the County Manager to fill such positions without Board confirmation remain unchanged.

6. AMENDMENT #6 – Replaces the Elected Office of the County Attorney with an Attorney Appointed and Terminated by the County Commission based on Qualifications and Performance.

Columbia County remains the only county in Florida where the County Attorney is an elected office. In all other Florida counties (charter and non-charter alike) the County Attorney is retained based on training, education and performance by the Board of County Commissioners. In all other counties, the County Attorney is employed by and reports to the Board of County Commissioners, except in those jurisdictions that have a chief elected executive position that hires and fires all staff.

In those counties outside of Florida where there is an elected County Attorney, that position is typically the equivalent of a County Prosecutor or a "State Attorney" that is elected by the voters of the county and only serves the citizens of the county.

The current practice in Columbia County has its origins in a Special Act passed by the Florida Legislature 60 years ago and well before the Florida Constitution was revised by the electorate in 1968.

The current Charter provision creates a system where the client – in this case the Board of County Commissioners - does not have the ability to hire or fire its primary legal advisor. The current provision also creates a situation where the position of County Attorney is selected by the voters of Columbia County but has no direct duties or responsibilities to the general public.

The proposed charter amendment would eliminate the elected status of the Office of the County Attorney after the current term of office has concluded. It would be replaced by an appointed position that is hired and fired by the County Commission based on qualifications and job performance. The proposed amendment does not specify whether the position is a full-time employee or part-time position retained on a contractual basis; that decision is left to the Board of County Commissioners within budget constraints.

APPENDIX A

**Resolution of the Charter Review Commission and
Proposed Amendments to the Columbia County Charter**

APPENDIX B

Charter of Columbia County

(2006)

APPENDIX C

Bylaws of the Charter Review Commission

APPENDIX D

**Agendas and Minutes
of the Charter Review Commission**