

CHARTER REVIEW COMMISSION

September 8, 2021

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 September 8, 2021.

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, V-Chair

Patricia W. Aho

Jeffrey K. Anlauf

Donna L. Barrett

Steve A. Drake

William J. Dryburgh, Chair

Donald McCormick

Theresa H. Murtha

Donna C. Peterman

Richard J. Pitz

William B. Schafer

Cyril F. Schrage

Stephen J. Vieira

Alternates

Vacant

The following members were absent: Cherie A. Burnette and Adam James Riley.

Others present: Robert H. Berntsson, Attorney; Janette Knowlton, Attorney; and Emily Lewis, Deputy County Administrator.

Citizens' present:

David Kesselring.

I. Membership Update:

Chairman Dryburgh reported on Membership changes since the CRC August meeting.

Effective August 17, 2021, Colleen Palinksi-Ferrara resigned from the Charter Review Commission. Third Alternate Steve Drake was made a full voting member of the Commission effective August 17, 2021. On August 18, 2021 Steve Drake was moved from the Administration/Staff subcommittee to the Other Boards and Agencies sub-committee to balance the committee memberships.

On August 26, 2021 an advertisement went out seeking applicants for the three Alternate positions. Attorney Knowlton updated the Commission by stating that 6-8 applications have been received. The

deadline for submission is September 15th after which they will be reviewed by the Board of County Commissioners at the September 28, 2021 Commission meeting.

II. Approval of Minutes:

MOTIONED WAS MADE BY RICHARD PITZ TO APPROVE THE AUGUST 11, 2021 MINUTES AND SECONDED BY DONNA BARRETT .

MOTION CARRIED 12:0

III. Citizen Input on Agenda Items

Citizen David Kesselring provided a written document to the Charter Review Commission regarding a suggested change to Article II, Section 2.2 A of the Charlotte County Charter regarding single member district voting for Commissioners. (The document is an attachment with these Minutes.)

Mr. Kesselring made the following comments:

I am urging the Charter Review Board of Charlotte County to discuss and pass on to the Commissioners for approval a suggested change to Article II, Section 2.2 A of the Charlotte County Charter. I suggestion the following language to be inserted into the existing language, after "pursuant to general law.", "and each district's commissioner shall be elected by only the qualified electors residing within each commissioner's district."

Mr. Kesselring noted the growth of Charlotte County and conveyed his opinion that smaller voting districts would allow the candidates to personally know their constituents and the constituents know their candidates; the cost would be less prohibitive to run; and more grass roots candidates might be able to participate in the process.

IV. Presentation by Emily Lewis, Deputy County Administrator

1% Local Option Sales Tax

Background:

- Local Government Infrastructure Surtax authorized by 212.055(2), Florida Statutes
- 1% local option sales tax in place since 1994
- Funded 117 projects worth more than \$430M
- Tourists, visitors, seasonal residents contribute
- Punta Gorda receives 10% of funding

Project Development:

20-year Community Needs Assessment

- Projects needed infrastructure for public facilities
- Reviewed and updated bi-annually

CIP (Capital Improvement Projects)

- Identifies projects within 5-year window

RFP process for community projects

2020 1 % Local Option Sales Tax

Sales Tax Focus Group

- 21 members; facilitated by FGCU professor
- Committee met 11 times Aug. 2019-March 2020
- Vetted 27 County and 4 external projects; made BCC recommendations for both Tier I and Tier 2 lists
- BCC provided direction on length of extension – 6 years
- BCC selection of final projects:
 - 14 Tier 1 projects
 - 5 Tier 2 (if funding available)

Tier 1 Projects (approved by BCC April 14)

Schools

School Security Upgrades

Infrastructure and Utilities

Water Quality Infrastructure
Family Services Center-Phase 2
Edgewater Drive Phases 3-5 Design
And Phase 4 Construction
Harborview Road

Tier 1 Projects

Quality of Life
Port Charlotte Beach Park Recreation
Center Renovation
G. C. Herring Park
William R. Gaines Jr. Veterans
Memorial Park
Bicycle, Pedestrian Sidewalks, and
Trails

City of Punta Gorda Projects

Public Safety Building Expansion
Henry Street Crosswalk
Henry Street Sidewalk
Burnt Store Traffic Lights
U.S. 17 Improvements
ADA Improvements

Public Safety

New Fire Station 17
Airport Rescue and Firefighting
Training Prop
Radio Management Warehouse
CCSO Administration.911
Fire Station 6 Replacement
Fire Station 3 Replacement
CCSO District 4 and Training Complex

Tier 2 Projects (approved April 14)

Vacuum Stations
CCSO District 2 Office
Charlotte Sports Park Renovation
South County Annex
Edgewater Drive – Phase 3
Port Charlotte Beach Park Pool
Library Renovations

Drainage Improvements-Boca
Grande Area
History City Hall Preservation
Freeman House Preservation
Bayfront Activity Center
Henry Street Property Improvements

Referendum held at General Election on November 2, 2020.

Result:	YES, for approval	75,534	67.6%
	NO, for rejection	35,837	32.2 %

Questions:

Member Schafer –If no candidate is in the general election can the Sales Tax be vote on in August?
Deputy Administrator Lewis - No. Must be at a general and traditionally at a Presidential election. Not at any special election or primary.

Member Schrage -Why does Punta Gorda get 10 percent?

Deputy Administrator Lewis – It is based on Revenue Distribution outlined by Florida Statute. It is based on the amount Punta Gorda contributes, which is about 10%

Member McCormick – I thought it was based on population? No, the Revenue Distribution is based on statute. See Statute 212.055(2)

Member Pitz – With Punta Gorda receiving 10 percent, what is the amount of tax money raised?

Deputy Administrator Lewis – I referred you to the Revenue Distribution. It is more about what is collected not raised.

Member Pitz- Punta Gorda Isles raises quite a bit of revenue compared to the rest of the county. Ten percent does not seem right. You need to look at sales tax. Contribution in sales tax is only going to go up. Is there a disparity of funds within the county? Is Punta Gorda not getting their fair share?

Attorney Berntsson – distribution is based on Statutory bases. If there was an issue, Punta Gorda would have it addressed. Member Pitz stated he needed numbers to see if Punta Gorda was getting the right distribution amount. What could be done if not?

Deputy Administrator Lewis – look at the Department of Revenue process to look at distribution.

Attorney Berntsson asked Deputy Administrator Lewis if she would ask the Budget department how they calculated the numbers and provide it to the Commission? Yes

Chair Dryburgh reminded the Charter Review Commission that we need to be aware of what this Charter Review can and cannot address. Attorney Berntsson stated he would have to research statutes to see if this was an issue we could address if it becomes a Charter issue.

Chairman Dryburgh moved the discussion to the reason Deputy Administrator Lewis was asked to be present today - to discuss the issue raised previously regarding monies given to the School Board.

Member Abbatematteo - Knowing that some of the monies are given to non-county entities, what are the measures in place to audit those funds? Please explain the auditing process for the County, City, and the School Board.

Deputy Administrator Lewis – We follow a normal fiscal process, and the County Board receives quarterly updates. Do we have jurisdiction over the School Board? No, they manage their own projects and do their own auditing. They invoice us and we pay the invoice. The City money goes directly to them and they manage their projects.

Member Abbatematteo - how do we know what these independent entities are doing with County tax dollars?

Deputy Administrator Lewis - The Clerk of the Court audits the County expenses. The City handles their audit.

Attorney Berntsson stated that the County does not get the money directly; it is sales tax money collected by the State. The Department of Revenue distributes the money to the different entities. Deputy Administrator Lewis stated that the School Board funds comes to the County first, which the School Board then submits an invoice to receive their funds. The City funds go directly to them.

Member Murtha – Some One Percent Sales Tax issues that have come up with the Other Boards Committee: 1) initial Selection of projects – people telling us projects selected by the committee were taken off the final list without input. Do you know anything about that?

Deputy Administrator Lewis – It was made very clear to the Committee that the ultimate list is decided by the Board of County Commissioners – they are only an advisory board to the Commissioners. The time to weigh in on that is through the Public comments at the final Board of County Commissioners meeting or to email their County Commissioners. The final decision is by the Board of County Commissioners. Member Murtha - So, they could come to the meeting and raise objections? Absolutely. 2) Is there a need for some outside follow-through (outside of staff and commissioners), to give comments on overbudget issues or follow-through on projects? Has there been any discussion on that?

Deputy Administrator Lewis - No, there is no ongoing committee. There are regular quarterly updates given to the Board of County Commissioners on sales tax projects. We reminded the committee up front that many of the proposed projects will be built six years down the road. There are definite economic issues at play – who would have thought we would be hit by a pandemic when we began the process, resulting in the rising cost of building materials.

Member Murtha – The main question is should there be a need for an outside advisory board? Several people we have talked to have raised that subject as a possibility.

Member Schafer -The people who participate in receiving and distributing is the County and the City except for the School District. The School Board does not have commercial payers, they are exempt from taxes. How do they get in as an equal partner?

Deputy Administrator Lewis – Florida Statute says the School Board is an allowable entity.

Member Schafer – They did not make it mandatory and already half of our taxes go to the School Board. They have their own special tax that they passed which they did not share with the County. They are not relevant because they are not part of collection or production of the tax.

Attorney Berntsson – question has been answer as referenced by Statute that the School Board is eligible.

Member Pitz – With the 5 million dollars the School Board requested – did the School Board request or did the County offer? Where did this request come from?

Emily – The School Board submitted a request as part of the RSP process.

Member Pitz - Now they get the money, is it put in a General or separate fund – where did it go? Whenever the School Board receives any money generated from the 1 % sales tax which is a Countywide tax, they are obligated to give us a financial accounting. Those funds need to be kept in a separate fund.

Deputy Administrator Lewis – I refer you to the School Board’s financial requirements - they are required to do their own audit and generate their own audit reports.

Member Pitz – we are here as a group to make recommendations to the Commissioners regardless of what you believe.

Attorney Knowlton–These are questions for the School Board. You can make a Public Records request for such information. I’m sure they have an audit report that you would be able to track.

Member Pitz - We need a paper trail if any questions arise.

Barrett – I sat on the sales tax committee on the last two sessions. In the first one there was no changes and it was approved. This last one was frustrating with the changes by the Board of County Commissioners, but the voters approved it overwhelmingly. The Board of County Commissioners tries to be as cost effective and conservative as possible. Those recordings are available online. Let’s move along as much of this is based on Florida State Statute. I don’t think there is much the Charter Review can do. This seems to be a waste of our time. We can’t over-ride State Statute. Or can we? Requesting an Audit from the School Board is not something the Charter Review should do.

Chair Dryburgh asked Attorney Berntsson if we had a Ballet issue that deals with funds coming from the County to the School Board, could a recommendation from this Commission go to the Board of County Commissioners and the Voters? Attorney Berntsson replied affirmatively that if we have a Charter question addressing how Funds go from sales tax to the School Board – Yes, we could recommend a Charter Amendment.

Member Murtha – What about reporting issues or concerns of a general recommendation to the Commissioners that came up during the interviews? Can we make the Board of County Commissioners aware of these concerns even if they don’t result in a Charter Amendment? Chair Dryburgh replied affirmatively, just make sure it is in your Final Report.

Member Aho – Is there anything in the 1% Statute that precludes the County from continuing an Advisory Committee in some form? Deputy Administrator Lewis - Not to my knowledge.

Member Schafer – Is it mandatory that the School Board participate? Deputy Administrator Lewis – Not mandatory but it is at the discretion of the Board of County Commissioners.

Member Abbatematteo – I understand that this is an Advisory Board and certainly the Board of County Commissioners can amend. When they decide and they adopt the Resolution, can the County or School Board (once approved by the voters and have received the money) change the designated use for the monies?

Attorney Knowlton – The Resolution does not outline the projects. The sales tax is an Ordinance. Public Infrastructure is the requirement of the Statute. The Board of County Commissioners comes up with the list of projects, whether Tier One or Tier Two. The Public is welcome to come speak in favor or not to the Board of County Commissioners. I did not hear any of the comments that were mentioned here today brought forward to the Board of County Commissioners.

Member Abbatematteo - Are the projects codified with the authority of the Commission behind it?

Attorney Knowlton - No, they are not. The Board of County Commissioners can amend if it is for "public infrastructure". Only one project changed in 20 years. The Board of County Commissioners is very involved in reviewing and monitoring the progress of the projects. The Board of County Commissioners takes very seriously the projects approved by the voters.

Member Abbatematteo - The County may take it seriously but what about the other entities? That's the issue.

Attorney Knowlton – the enforcement is supposed to come from entity. The School Board requests the fund, the County reviews and questions, then the County blesses the projects and the voter's vote. Any questions regarding enforcement would be a question for the School Board.

Member Pitz – When the School Board requested money for Security, it was 4 to 5 times higher than what they received. Infrastructure should be defined.

Attorney Knowlton - we will provide you information on the Statute that address this issue as well as the Budget information you requested.

III. Old Business

Chairman Dryburgh asked for reports from any of the sub-committee chairs wishing to update the Charter Review Commission on their progress to date and to report if any committee was finish. Chairman Dryburgh reminded the committees that their committee work needs to be done by the end of January so that proposed issues can be discussed, voted upon, and then given to Attorney Rob Berntsson for research and drafting of possible Amendments that will ultimately go to the Board of County Commissioners and the Voters. This process takes a great deal of time. All issues will be discussed, including the issue raised by Citizen Kesselring today and everything will be voted upon. Chair Dryburgh stated he wants to keep everything above-board and that nothing will be hidden.

a. Sub-committee Reports

i. Constitutional Officers: Committee Chair Schafer reported that they had met with all five of the Constitutional Officers. The committee will meet a few more times in the next month or two and then be finished.

ii. Administrative Staff: Committee Chair Donna Barrett reported that the committee has almost completed their interviews with just three staff positions remaining to be interviewed. Several issues to be discussed have been raised in these interviews but the Committee will not meet to discuss them until the interviews are completed. Member Murtha brought forward the suggestion that issues raised in interviews (in all the committees) might be brought forward at these meetings in case other committees might want to address them in their interviews. Member Barret reported the following issues raised: 1) Residency for Leadership; 2)Term Limits; 3) Residency for running for office regarding enforcement, (Supervisor of Elections takes forms submitted at face value - 2020 Election), and 4) Budget review language – 2-year budget. Member Aho reported that the issue of Residency for running for office was raised by a Constitutional Officer in their interview. Because it is in our Charter in Section 3.2, who enforces our County Charter? Member Aho suggested this as a good topic for

discussion. If there is a violation of our County Charter, who enforces that? Member Schafer suggested that our legal department could possibly decide regarding qualifying and order the Supervisor of Elections to remove an unqualified candidate.

iii. Board of County Commissioners: Chair Abbatematteo reported that this committee will meet on September 22 to interview the Economic Director, Dave Gammon. The committee has developed a list of issues to discuss, but not all issues will be appropriate to each person interviewed. Other persons to be interviewed are the five County Commissioners, the County Administrator, and a few others. Various issues to raise are: 1) Term limits, (School Boards in some counties have terms); 2) Economic Development Director and who they report to; 3) Number of County Commissioners and when to increase; 4) How elected? Issue raised today during Public input – single district, at large, or a combination; 5) Some County Charters have citizen or ethics boards. Complaints regarding the Charter – who do they go to? 6) Citizen initiatives to propose an ordinance – we are the highest in the state at 10%, other counties are in the range of 5-7%. 7) Our Charter is silent on vacancies – who appoints a Commissioner when vacant? Our Charter is very thin; we do not address a lot of issues and maybe it is time to change this based on the number of issues being raised today. Member Pitz reported that the Florida Legislature will review making all elections Partisan this Fall.

iii. Other Boards: Chair Theresa Murtha reported that the committee is about halfway through their interviews and are moving very quickly. A couple of issues that were raised; 1) Restricting funds in campaign financing; 2) Minimum age for serving as a Commissioner; 3) Residency requirements needing to be stronger than 6 months; 4) Airport Authority and relationship to Charlotte County and how the State can legislate conditions for composition of the commission without the County having a voice. Whether or not there should be some requirement that the County should have some say in any changes with the Airport Authority.

Chair Dryburgh thanked everyone for a good discussion and for all the hard work they are doing and how much he appreciates the time and effort spent.

IV. New Business

a. Approval of Big W Law Firm Statement for Services provided: September 1, 2021 Statement for Services in the amount of \$787.50.

MOTION WAS MADE BY DONNA BARRETT AND SECONDED BY WILLIAM SCHAFFER TO APPROVE THE BIG W LAW FIRM'S STATEMENT FOR SERVICES IN THE AMOUNT OF \$787.50

MOTION CARRIED 12:0

V. Discussion:

Member Shafer raised the issue of the Sunshine Law and the recent memo from County Attorney Janette Knowlton regarding the issue of whether it is a Sunshine violation for a Commissioner to be a speaker at a private function when another Commissioner is in the audience. The advice being given is that the second Commissioner should not attend such a function. Attorney Berntsson gave some

historical background information regarding changes to interpretation and recommended that if you are at a private function and another commission member is there, then you should absent yourself from the function. Members raised several issues such as the information being in the public forum or the discussion being in a general nature and not specific. Attorney Berntsson advised that to avoid having to defend your decision to attend such an event, you should not attend.

VI. ADJOURNMENT:

THE MEETING WAS ADJOURNED AT 4:05 BY CONSENSUS.

Next meeting will convene on October 13, 2021 at 3 p.m. at the Murdock Administration Center, 18500 Murdock Circle, Room B106, Port Charlotte, Florida.

William J. Dryburgh ~~Alberto Motta~~ VICE CHAIR
William J. Dryburgh, Chair
ABORTEMATED

DATE ADOPTED: 10/13/2021

Single Member District Voting for Commissioners

I am urging the Charter Review Board of Charlotte County to discuss and pass on to the Commissioners for approval a suggested change to Article II, Section 2.2., A of The Charlotte County Charter.

I suggest the following language to be inserted into the existing language, after "pursuant to general law,":

"and each district's commissioner shall be elected by only the qualified electors residing within each commissioner's district."

Points of Consideration

1. Does it make sense that voters in other districts decide who your district representative will be? Single Member Districts (hereafter referred to as SMDs) allow for election of candidates by their own communities. Charlotte County is already broken up into five districts. Candidates must reside in the district for which they are running. We already have everything but the voting.

Do we vote for senators from Nebraska or representatives from the state of Washington? Should the entire State of Florida vote for our State Representative?

SMDs will simply bring Charlotte County in line with how we elect state and national representatives.

2. SMD voting provides voters with strong constituency representation because each voter has a single, easily identifiable, district representative.

3. Under the current election system, the offices are bought and not won. In almost every election, whoever collects the most donations and has huge funding from PACs, wins. This means that a person willing to sell out to big donors and power brokers will have the upper hand.

Almost always, it is just the biggest money raiser that can send out expensive mail outs and advertisements. With an SMD, a candidate can conceivably go door to door and personally introduce him or herself to a large portion of voters in their district.

4. Many voters are not at all familiar with any of the Commissioners. With SMDs the voter only needs to know his own commissioner and each commissioner will get a chance to get to know the voters in his or her district. Voters can concentrate on the

actions of their own commissioner and be able to better hold them accountable. Many residents don't even know the name of their own Commissioner.

5. Is Charlotte County fairly represented by the general population of voters? As of the writing of this document Charlotte County has 71,289 Republican voters, 38,538 Democrat voters and 43,682 of neither party. It may have been even more evenly distributed at the last election. All five Commissioners are Republican. 53.6% of the voters are not Republican. If you are on the winning side of this you might be saying hooray, but it is hardly representative.

6. SMDs helps make it possible for everyday people to run for office further expanding the field of qualified candidates. Competition is good.

It is the ideas brought forth by the people to the charter review board that should initiate change. Charter review members should be there to promote and advocate for the people. Please protect the charter from special interests and serve the people.

September 8, 2021
DAVID KESSELRING