

CHARTER REVIEW COMMISSION

MINUTES OF THE LISTENING SESSION

**VOLUSIA COUNTY HISTORIC COURTHOUSE
125 W. NEW YORK AVENUE, DELAND, FLORIDA
TUESDAY, SEPTEMBER 29, 2015**

CALL TO ORDER

Commission Chair Hyatt Brown convened the fifth listening session of the Volusia County Charter Review Commission at 5:33 p.m. The meeting was held at the Volusia County Historic Courthouse, DeLand, Florida.

Members of the Commission in attendance were Dr. T. Wayne Bailey, Hyatt Brown, Frank Bruno, Ambassador Stanley Escudero, Dr. P.T. Fleuchaus, David Haas, Peter Heebner, Pat Northey, Glenn Ritchey, Derek Triplett, Mark Watts, and Lisa Ford Williams. Also present were County Attorney Dan Eckert, Dona DeMarsh Butler, county support staff, and members of the public.

PUBLIC PARTICIPATION

Chair Brown opened the floor to public participation. Each member of the public had been asked to complete a public participation form which included their name, address, and brief description of the topic they wished to address. Each speaker was allotted three minutes.

Deanie Lowe, Ormond Beach, stated that she had served ten years on the Ormond Beach planning board, four years on the County Council, part of which was Chairman, had served as Supervisor of Elections, and was a member of the 1985-1986 Charter Review Commission. She stated that in the past there had been a lot of conflict between the cities and the County, with issues including annexation, planning, and land uses. She felt that the cities did not have the legal resources that the County had in fighting for their issues. She asked the Commission to keep in mind the amount of lawsuits filed against the County and the Growth Management Commission when reviewing the Growth Management Commission budget. She stated that there had been talk that the County wanted to take over the planning not only for the un-incorporated areas, but also for the incorporated areas of the cities, which caused major concern. She mentioned that each city has its own character and personality, and citizens choose to live in those areas based on that unique character. The Growth Management Commission was put on the ballot to create a level playing field for the cities and the County. Each get to be represented equally. She would never ask the Commission not to put an amendment on the ballot to allow voters to decide and reminded that ten years ago there were questions regarding the Growth Management Commission placed on the ballot. She provided a written copy of her comments (attached).

Chair Brown asked Ms. Lowe asked if the number of lawsuits had been reduced as a result of the Growth Management Commission.

Ms. Lowe answered that Jim Wachtel, the current Chairman of the Growth Management District, could give more specifics regarding the number of lawsuits. She stated that one lawsuit could amount to one year's budget. She also mentioned that the amendments placed on the ballot ten years ago went down in flames.

Mr. Heebner asked Ms. Lowe if her position was to maintain the Growth Management Commission.

Ms. Lowe answered that she would love to see the Commission stay in place as it still has a usefulness and purpose. We can expect an enormous growth in population over the next 20 years. She also wanted to again make it clear that she is not asking the Charter Review Commission not to place the issue regarding the Growth Management Commission on the ballot but to be careful with the wording.

Dr. Bailey stated that the mission on the Growth Management Commission has changed as the rules of the game with the Department of Community Affairs and management decision makers have gone through some major changes over the years. He asked Ms. Lowe if she would bring back recommendations to the Commission to improve the system.

Ms. Lowe stated that she would be happy to continue working with the Charter Review Commission to make recommendations. An option is to work with the Growth Management Commission to submit a report to the Council to tweak the procedures of the Growth Management Commission. She stated that with population growth, there needs to be a Growth Management Commission to be looking at consistency and how decisions affect neighboring municipalities.

Mr. Watts asked Ms. Lowe to expand on the proposed changes on the ballot ten years ago.

Ms. Lowe responded that although she is a big County proponent, she also stands up for the individual cities. She stated that one of the ballot issues in 1986 was regarding comprehensive planning districts and she read the amendment which was defeated. Another proposed amendment she read was regarding the growth management dispute resolution commission which was also defeated. The final defeated amendment she read was regarding the County planning authority.

Jim Wachtel, DeLand, current Chairman of the Growth Management Commission, stated the he was surprised by comments he had heard recently about abolishing the Commission and that the Growth Management Commission was being unfair to the business community as he felt that the Commission was doing a pretty good job. He stated that he went back to look at the intent of the establishment of the Growth

Management Commission in the Charter, which was to provide consistency between the municipalities in their comprehensive plans. He added that the early history of it was not very consistent through the County. He further stated that almost every application that had come through in the last six years had been discussed between the municipalities and differences had been resolved between them. He stated that the Growth Management Commission has done its job by having that consistency although there have been some controversies. He added that the Commission has a series of rules that were established, regarding the Commission's procedures, which can be changed without going to the Charter. He reminded the Commission that the Growth Management Commission is totally independent of any political municipality.

Mr. Heebner asked Mr. Wachtel how many appeals on average were heard by the Growth Management Commission in a calendar year.

Mr. Wachtel responded that there had been two in the past year. Both were from affected parties and not municipalities. Prior to that there had been appeals regarding the Farmton project and the Oak Hill project.

Mr. Heebner asked if most of the appeals were not coming from municipalities.

Mr. Wachtel responded that they were not.

Suze Peace, DeLand, stated that she wanted to speak about the environment and felt that there were good laws and direction in place regarding environmental issues. She felt that there is a problem with updating the ordinances, such as the fertilizer ordinance and springs initiatives. She also felt there is a problem with non-partisan elected positions that are being influenced by partisan groups in a heavy footed manner.

Clay Henderson, DeLand, Director of Stetson Institute of Water and Environment, stated that he is in a new role to address water and environmental policy issues and to leverage the intellectual capital at Stetson to deal with many of these problems in this community. He offered to provide research to the Commission for environmental and growth management topics. He added that environmental issues have been part of the Charter since its inception, including section 202.2 Abuse of the Environment, which has been there since the beginning, although it has probably not lived up to its expectations. He stated that the Charter Review in 1986 brought minimum standards for the environment, the Growth Management Commission, and tweaks to bonding authority which led the way for two historic bond issues for land conservation. In 1996, recommendations for the County Water Review Commission which led to the establishment of WAVE and the Water Alliance. Ten years ago all environmental amendments failed. He added that there are issues in Volusia County; all bodies of water are designated as impaired by the EPA, we almost lead the State of Florida in the number of septic tanks, and springs are impaired from pollution from septic tanks. He added there are still 2,500 septic tanks along the Indian River lagoon despite laws being passed ten years ago.

Chair Brown asked Mr. Henderson if those living in boats on the Halifax River are dumping sewage into the river.

Mr. Henderson stated that more likely than not they are dumping their waste into the river as there is no convenient place for them to dispose of it.

Chair Brown asked Mr. Henderson if there were current laws prohibiting the dumping of waste into the river.

Mr. Henderson answered that they are violating both federal and state laws.

Ms. Northey asked Mr. Henderson if there were specific environmental legislation or amendments that they should consider placing on the ballot or provide as management recommendations.

Mr. Henderson responded that he could provide that information and stated that there are various ways and mechanisms of addressing environmental issues.

Ambassador Escudero stated that the State legislature still has not decided what to do with the Amendment 1 money. He agreed that there was a problem with septic tanks in the Mosquito Lagoon and the core area of Daytona. He added that some of the amendment money could be used to remediate septic tank issues. He asked if Mr. Henderson would be lobbying the state for these issues.

Mr. Henderson stated that he has given up lobbying. He added that he is working closely with staff regarding these and other budget issues and that it is both a funding and a regulatory issue.

Ambassador Escudero asked if there were any other potential funding sources.

Mr. Henderson stated that user fees could be used and there are places in the County that have gone above and beyond what is needed as well as places that have not done anything to correct the septic issues.

Mr. Watts asked if Mr. Henderson could bring back solution examples.

Mr. Henderson stated that he would be happy to do that as it is time to get creative about solving these environmental issues.

Judge Michael McDermott, Port Orange, retired Volusia County Judge, reminded the Commission of the "war" he waged against the County Manager years ago regarding the proposed location of the County courthouse. He stated that he wanted the location centralized and not directly next to the jail. After two years he added, the people of the County won and the Justice Center was located in downtown Daytona Beach. His desire is to amend the Charter to give guidance to a County Manager who is willful and

on his own agenda, but cannot see a way to amend it that would be appropriate. He provided written comments to the Commission (attached).

Ambassador Escudero asked Judge McDermott what his objection was to the current arrangement.

Judge McDermott responded that it is better for decision to be made by an elected official than by an appointed official. He stated the Charter specifies that the County Council make decisions on policy and the County Manager implements that policy. He continued that the people of the county should be the ones to decide through influencing their elected officials.

Ambassador Escudero stated that the County Council cannot influence policy implementation and there would need to be considerable change in the Charter to make it possible for the County Council to adopt the role that the County Manager currently implements. He asked if that was Judge McDermott's intention.

Judge McDermott responded that was his original inclination, but after reading over the Home Rule Charter several times realized it would be an attempt to create something that would ultimately be unworkable. He further stated that he had a problem with the County Council making a decision and the County Manager continuing to further advocate his own position.

Dr. Fleuchaus stated that Judge McDermott kept bringing up one example. He added that the only alternative would be for the County Manager to be elected which is a considerably different form of government. He suggested that Judge McDermott should have been able to influence the County Council to affect the change needed.

Judge McDermott responded that eventually he was able to do some with additional help.

Dr. Bailey suggested that the document given provides evidence that the Charter worked since the Justice Center was built in the location that Judge McDermott desired. He further stated that he did not feel that this was evidence that the Charter needed to be amended and asked if there was an additional problem.

Judge McDermott responded that one member of the County Council had spoken to demolish the Courthouse Annex and library on City Island and replace them with condominiums and to move the courthouse out to be near the jail building. He further added that there is some room still left for judge growth in most buildings. He felt that we may be revisiting this issue of where to place a courthouse in the future and that there should be a way for the people of Volusia to decide where to build public buildings.

Linda Smiley, Daytona Beach, spoke about term limits of County Council members and she felt that the limit should be reduced to two years. She also felt that officials should

not be able to move back and forth between the Council Chair, District Representative, and At-Large Representative positions continually. She wants there to be a more clearly defined policy and review process regarding the spending of Eco-funds. She also felt that there should be a beach advisory committee and that tolls should be removed for beach access. She stated that there should be boundaries for conflict of interest in regard to appointing spouses and close friend to various committees.

This concluded the public participation portion of the meeting.

Chair Brown asked the Committee members for suggestions relating to procedure or process.

Dr. Bailey stated that County Manager Dinneen would be providing a report on county economic and demographic data.

Dona DeMarsh Butler added that staff was working to compile the information for that meeting.

Mr. Heebner suggested that there should be some additional groups to provide information regarding economic development or other issues and that members may have additional suggestions.

Mr. Bruno asked that a summary of the listening session issues be provided.

Dona DeMarsh Butler confirmed that the listening session information would be provided.

Chair Brown recapped that County data information would be provided by Mr. Dinneen and asked that it be circulated prior to the next meeting, a list of issues brought before the Commission from the listening session would be provided, and asked Mr. Heebner to provide suggestions of groups whom he would like to provide presentations to the Commission.

Dr. Fleuchaus added that there are fifteen bright people on the Commission who may have additional suggestions of what to look at regarding the Charter and issues relating.

Chair Brown asked that Charter suggestions/issues be sent in to Ms. Butler to be added to the agenda.

Mr. Ritchey asked that County Attorney Dan Eckert review the Charter to determine items that may be outdated because of legislation changes and to provide a marked copy to the Commission.

County Attorney Dan Eckert stated that he could provide a copy with items marked that are functionally or legally obsolete.

Mr. Watts stated that it would be helpful to look at what has come in and have the conversation of whether the group will look at policy versus structural issues.

Chair Brown asked what Mr. Watts meant regarding policy versus structural issues.

Mr. Watts stated that he is interested in the conversation regarding the appropriate nature of changes to recommend into the Charter, whether they are limited to structure of governance or whether the Commission would entertain policy issues.

Chair Brown asked whether the elimination of the Growth Management Commission is characterized as a policy or structural issue.

Mr. Watts responded that he felt it was more of a structural issue.

Chair Brown adjourned the meeting at 6:23 p.m.