

CHARTER REVIEW



C O M M I S S I O N

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CHARTER REVIEW COMMISSION DAYTONA BEACH INTERNATIONAL AIRPORT DENNIS R. MCGEE ROOM

Wednesday, March 23, 2016

9:00 a.m.

A G E N D A

- I. Call to Order**
- II. Roll Call**
- III. Public Participation (Limit 3 minutes)**
- IV. Modification of Legislative Procedures to Conform to Law; and Repeal of Superseded or Obsolete Provisions (Pages 2 – 16)**
- V. Payment of In-County Expenses of County Council Members (Page 17 – 19)**
- VI. County Council Confirmation of County Manager Appointments (Pages 20 – 21)**
- VII. Volusia Growth Management Commission**
 - A. Proposed Amendments to the VGMC Rules of Procedure (Pages 22 -25)**
 - B. Proposed Charter Amendment (Pages 26 – 33)**
 - C. Revised Proposed Charter Amendment (Addendum 1, Pages 34 – 38)**
- VIII. Discussion by Commission of matters not on the Agenda**
- IX. Adjourn – next meeting, April 11, 2016 at 5:30 in the DBIA – Dennis R. McGee Room**

AMENDMENT

[Endnotes are for the information of the charter review commission. They are not intended for inclusion in the text of any proposed amendment which the commission may recommend.]

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended in pertinent part as follows:

(Except as provided herein or as otherwise provided by separate amendment, charter provisions not shown are not amended.)

(Words ~~struck~~ are deletions; words underscored are additions.)

ARTICLE III. - LEGISLATIVE BRANCH—COUNTY COUNCIL

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Sec. 308. Legislative procedures.

The council may take official action only by the adoption of ordinances, resolutions or motions. Except as otherwise provided by this charter, all ordinances, resolutions or motions shall be adopted by majority vote in accordance with the provisions of the Constitution and laws of Florida. A majority of the full council shall constitute a quorum and shall be required to adopt, amend or repeal any ordinance. A majority of those present shall be required to adopt, amend or repeal a resolution or motion under the terms of this provision. All members in attendance, ~~including the chairman or presiding officer,~~ shall vote on all council actions except as otherwise provided by state law.¹

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ARTICLE VI. ADMINISTRATIVE DEPARTMENTS OF THE GOVERNMENT

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~~Section 604. Administrative Code.~~

~~The county manager shall prepare the initial administrative code which shall set forth the department organization of the government and the nature and scope of each department together with all required rules and procedures for the operation of said departments. The administrative code shall then be submitted to the council for review, amendment and adoption. The council shall adopt the code within three (3) months of the date submitted. If not adopted within three (3) months, the code as originally prepared by the county manager shall be considered approved and shall remain in force until such time as it may be formally amended by the council.²~~

ARTICLE VII. ADJUSTMENT, REGULATORY AND ADVISORY BOARDS

~~Sec. 701. Initial bBoards.³~~

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ARTICLE IX. ELECTIONS

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~~Sec. 904. Nonpartisan elections.~~

~~Elections for all offices shall be on a nonpartisan basis. No candidates shall be required to pay any party assessment or be required to state the party of which they are a member or the manner in which they voted or will vote in any election. All candidates names shall be placed on the ballot without reference to political party affiliation. School board members elected after~~

~~January 1, 1995 shall be elected on a nonpartisan basis in the manner provided in section 901.1(3) of the charter.~~ ⁴

ARTICLE X. PERSONNEL ADMINISTRATION

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Sec. 1004. - Personnel Human resources director.⁵

Sec. 1004.1. - Qualifications.

The ~~personnel~~ human resources director shall be chosen on the basis of professional training and experience in personnel administration.

Sec. 1004.2. - Powers and duties.

The ~~personnel~~ human resources director shall have all of the powers and duties as described in the merit system rules and regulations as adopted by the council.

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~~**Sec. 1007. Employee representatives.**~~

~~Classified service employees as provided in the administrative code may elect annually, representatives who may attend the personnel board meetings to bring to the attention of the personnel board complaints, requests and considerations of the employees.~~ ⁶

Sec. 10078. Oaths.

For the purpose of the administration of the personnel provisions of this charter, any member of the personnel board shall have the power to administer oaths.

Sec. 10089. Amendment to rules and regulations.

A two-thirds (2/3) vote of the full council shall be required to amend the rules and regulations of the merit system.

~~Sec. 1010. Retirement system.~~

~~All officers and employees of the charter government shall be covered by the "state and county officers retirement system" as provided by law. ⁷~~

~~Sec. 10091. Adoption of merit system.~~

~~The county manager shall be responsible for the preparation and presentation to the council of the proposed merit system complete with classification, pay plan or amendments thereto. The initial proposal shall be presented prior to the adoption of the first budget by the charter government. ⁸~~

ARTICLE XI. FINANCE

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~~Sec. 1103.4. Reduction of millage.~~

~~In the event that the council shall determine that the millage to be levied for county purposes in any year will be such that said millage together with all special district millages subject to the millage limitation fixed by Article VII, Section 9 of the Florida Constitution for county purposes will exceed that limitation, then the council shall have the power to reduce the millage requested by any or all of such districts after a public hearing so that the total shall not exceed the maximum millage for county purposes. ⁹~~

~~Sec. 1104. Bonds.~~

~~Sec. 1104.1. Outstanding bonds.~~

~~All outstanding bonds issued by former governments including the board of county commissioners of Volusia County and all special districts or authorities abolished or altered by this charter are obligations of the county government; however, payment of such obligations and the interest thereon shall be made solely from and charged solely against funds derived~~

~~from the same sources from which such payment would have been made had this charter not become effective.~~ ¹⁰

Sec. 1104.12. Authority to issue.

The charter government shall have the authority to issue any bonds, certificate of indebtedness or any form of tax anticipation certificates authorized by the Constitution which cities, counties or districts are empowered by law to issue.

Sec. 1104.23. Bond administration.

The charter government shall have the necessary authority to administer the collection of funds and the payments of amounts due on any bonds.

ARTICLE XIII. - MISCELLANEOUS PROVISIONS

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Sec. 1312. No revival by implication.

The repeal of any provision of this charter which repealed all or any portion of a former charter section or special act shall not be construed to revive those former charter sections or special acts; provided that the transfer of functions, responsibilities, duties, and obligations of former special districts and authorities which were repealed upon adoption of the charter are hereby ratified and confirmed. ¹¹

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ARTICLE XIV. - SPECIAL TAX DISTRICTS AND AUTHORITIES

~~Sec. 1401. -- East Volusia Navigation District.~~

~~The functions, duties and obligations of the East Volusia Navigation District as provided in Chapter 37-18967, Laws of Florida as amended are hereby transferred and vested in the~~

~~charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1402. -- Halifax Area Research Commission.~~

~~The functions, responsibilities, duties and obligations of the Halifax Area Research Commission as provided in Chapter 59-1950, Laws of Florida as amended are hereby repealed.~~

~~Sec. 1403. -- Halifax Drainage District.~~

~~The functions, responsibilities, duties and obligations of the Halifax Drainage District as provided in Chapter 19-7968, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1404. -- Halifax River Waterways Improvement District.~~

~~The functions, responsibilities, duties and obligations of the Halifax River Waterways Improvement District as provided in Chapter 53-29596, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1405. -- Lake Ashby Drainage District.~~

~~The functions, responsibilities, duties and obligations of the Lake Ashby Drainage District as provided in Chapter 18-7760, Laws of Florida are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1406. -- New Smyrna Inlet District.~~

~~The functions, responsibilities, duties and obligations of the New Smyrna Inlet District as provided in Chapter 25-10448, Laws of Florida as amended are hereby transferred and vested~~

~~in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1407. -- North Ormond Drainage District.~~

~~The functions, responsibilities, duties and obligations of the North Ormond Drainage District as provided in Chapter 27-12107, Laws of Florida are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1408. -- Northeast Volusia Development Authority.~~

~~The functions, responsibilities, duties and obligations of the Northeast Volusia Development Authority as provided in Chapter 61-02977, Laws of Florida are hereby transferred and vested in the charter government and said authority shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1409. -- South County Drainage District.~~

~~The functions, responsibilities, duties and obligations of the South County Drainage District as provided in Chapter 67-1022, Laws of Florida are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1410. -- Turnbull Hammock Drainage District.~~

~~The functions, responsibilities, duties and obligations of the Turnbull Hammock Drainage District as provided in Chapter 17-7611, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1411. -- Volusia County Sanitary District.~~

~~The functions, responsibilities, duties and obligations of the Volusia County Sanitary District as provided in Chapter 53-29587, Laws of Florida are hereby transferred and vested in~~

~~the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1412. -- Volusia County Water and Sewer District.~~

~~The functions, responsibilities, duties and obligations of the Volusia County Water and Sewer District as provided in Chapter 59-1951, Laws of Florida are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1413. -- Volusia County Water District.~~

~~The functions, responsibilities, duties and obligations of the Volusia County Water District as provided in Chapter 51-27960, Laws of Florida are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1414. -- Water Conservation and Control Authority.~~

~~The functions, responsibilities, duties and obligations of the Water Conservation and Control Authority as provided in Chapter 63-1019, Laws of Florida are hereby transferred and vested in the charter government and said authority shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1415. -- Daytona Beach Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Daytona Beach Special Road and Bridge District as provided in Chapter 25-11783, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on October 1, 1971, and said act is thereupon repealed.~~

~~Sec. 1416. -- DeLand-Lake Helen Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the DeLand-Lake Helen Special Road and Bridge District as provided in Chapter 25-11275, Laws of Florida as amended are~~

(Modification of legislative procedures;
repeal of obsolete provisions)

~~hereby transferred and vested in the charter government and said district shall cease to exist on October 1, 1971, and said act is thereupon repealed.~~

~~Sec. 1417. -- DeLeon Springs-Glenwood Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the DeLeon Springs-Glenwood Special Road and Bridge District as provided in Chapter 27-13493, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1418. -- DeLeon Springs-Seville Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the DeLeon Springs-Seville Special Road and Bridge District as provided in Chapter 21-8851, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on October 1, 1971, and said act is thereupon repealed.~~

~~Sec. 1419. -- Halifax-St. Johns River Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Halifax-St. Johns River Road and Bridge District as provided in Chapter 27-498, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1420. -- Halifax Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Halifax Special Road and Bridge District as provided in Chapter 27-13514, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on October 1, 1971, and said act is thereupon repealed.~~

~~Sec. 1421. -- Lake Helen-Osteen Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Lake Helen-Osteen Special Road and Bridge District as provided in Chapter 23-9654, Laws of Florida as amended are~~

(Modification of legislative procedures;
repeal of obsolete provisions)

~~hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1422. -- New Smyrna-Coronado Beach Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the New Smyrna-Coronado Beach Special Road and Bridge District as provided in Chapter 27-13497, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1423. -- New Smyrna Beach Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the New Smyrna Beach Special Road and Bridge District as provided in Chapter 19-8205, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1424. -- Orange City-Enterprise Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Orange City-Enterprise Special Road and Bridge District as provided in Chapter 23-9653, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on October 1, 1971, and said act is thereupon repealed.~~

~~Sec. 1425. -- Orange City-Lake Helen Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Orange City-Lake Helen Special Road and Bridge District as provided in Chapter 27-13496 Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on October 1, 1971, and said act is thereupon repealed.~~

~~Sec. 1426. -- Osteen-Enterprise Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Osteen-Enterprise Special Road and Bridge District as provided in Chapter 29-14447, Laws of Florida as amended are~~

(Modification of legislative procedures;
repeal of obsolete provisions)

~~hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1427. -- Osteen-Maytown, Oak Hill Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Osteen-Maytown, Oak Hill Special Road and Bridge District as provided in Chapter 27-13491, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1428. -- Port Orange-Inlet Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Port Orange-Inlet Special Road and Bridge District as provided in Chapter 27-13492, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1429. -- Port Orange-South Peninsula Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Port Orange-South Peninsula Special Road and Bridge District as provided in Chapter 49-26288, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1430. -- Port Orange Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Port Orange Special Road and Bridge District as provided in Chapter 41-21057, Laws of Florida as amended are hereby transferred and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

~~Sec. 1431. -- Special Road and Bridge District.~~

~~The functions, responsibilities, duties and obligations of the Special Road and Bridge District as provided in Chapter 61-2973, Laws of Florida as amended are hereby transferred~~

~~and vested in the charter government and said district shall cease to exist on the effective date of this charter and said act is hereby repealed.~~

Sec. 1432. – Turnbull Special Road and Bridge District.

~~The Turnbull Special Road and Bridge District, Chapter 23-9051, Laws of Florida as amended is hereby amended by adding a new section to read:~~

~~Section _____. The Turnbull Special Road and Bridge District shall continue in effect with all necessary powers, including the power to levy taxes and special assessments, solely for the purpose of fulfilling the contractual obligations of the district to the holders of bonds or certificates of indebtedness and to the former state road department of Florida (now the department of transportation), including lease purchase agreements which exist on the effective date of this act or thereafter arise from such existing contracts, bonds, certificates or agreements. All other powers or duties and all real or personal property not included in the performance of such contracts, bonds, certificates or agreements are hereby transferred and vested in the charter government on October 1, 1971. From and after October 1, 1971, said district shall not levy any tax, special assessment or millage for any purpose except as hereinabove expressly authorized.~~

Sec. 1433. – Special road and bridge districts; transfer of assets, etc.

~~Upon the abolishment of each and every special road and bridge district by this charter, all assets, rights-of-way of public roads and bridges and all agreements, including lease purchase agreements between such district and the former state road department, now the department of transportation of Florida, shall become vested in the county of Volusia and the county of Volusia shall automatically become a party to all such agreements in lieu of said districts and shall be entitled to all of the benefits thereof and the county of Volusia shall perform all obligations of said districts under said agreements. ¹²~~

Sec. 1434. 1401. - Other special districts and authorities.

The special acts of the legislature related to Volusia County listed below are hereby amended to add the following section: [In furtherance of the orderly exercise of the power of

(Modification of legislative procedures;
repeal of obsolete provisions)

local government for the benefit of the people in Volusia County, the act creating this district may be amended by the legislative procedures and powers vested in the charter government of Volusia County and by the Constitution and laws of Florida.]

- (1) East Volusia Mosquito Control District, Chapter 37-18963, Laws of Florida as amended.
- (2) Ponce DeLeon Inlet and Port Authority, Chapter 65-2363, Laws of Florida as amended.
- ~~(3) Halifax Advertising Tax District, Chapter 49-26294, Laws of Florida as amended.~~

In no event shall such special acts be amended to re-establish a governing body other than the county council.¹³

The title and ballot question shall be as follows:

**MODIFICATION OF LEGISLATIVE
PROCEDURES TO CONFORM TO
LAW; AND REPEAL OF
SUPRESEDED OR OBSOLETE
PROVISIONS.**

Shall the Volusia County Home Rule Charter be amended to repeal provisions which either have been superseded by state law or have become obsolete by other conditions; and to conform county council voting procedures to state law regarding voting conflicts?

YES - FOR APPROVAL
NO - AGAINST APPROVAL

¹ Section 308 is amended to conform to the provisions of section 112.3143, Florida Statutes, which preclude a county council member from voting in circumstances where the member has conflict as defined by the statute; and of section 286.012, Florida Statutes. Like the charter section, section 286.012 requires voting, but permits abstention where there is, or appears to be a possible conflict of interest under sections 112.311, 112.313, or 112.3143, Florida Statutes, or under more stringent local standards adopted pursuant to section 112.326, Florida Statutes; or to assure a fair quasi-judicial proceeding free from prejudice or bias.

² Section 604 pertains to the initial adoption of the administrative code, a duty fulfilled by the county council. Section 307 provides continuing authorization and procedures for amendment of an administrative code.

³ Section 701 is amended to delete the word "Initial" from its title. The substantive provisions are not limited only to the boards first appointed by the county council.

⁴ Section 904 was amended in 1994 by the addition of the last sentence to provide for non-partisan school board elections. It has been preempted. Article IX, section 4 of the Florida constitution was amended in 1998 to provide for statewide non-partisan election of school board members, according to general law. Chapter 105, Florida Statutes, provides for such elections at the time of the primary election; and for any runoff at the time of the general election, times which vary from those provided by charter section 901.1(3).

⁵ Section 1004 is amended to change the title of personnel director to human resources director to conform to modern usage.

⁶ Section 1007 establishes a procedure for election of employee representatives which has not been utilized for several years, if ever. The inclusion of this section in the 1970 charter special act preceded 1974 general law implementation, by part II, Chapter 447, Florida Statutes, of the right of public employees to collectively bargain included in article I, section 6 of the 1968 Florida constitution. The legal concern that brings into question the viability of section 1007 is whether its implementation would create what may be considered an employer dominated labor organization; and thus would constitute an unfair labor practice under state law. The Florida Public Employee Relations Commission, which administers the governing state law, has not addressed itself to a similar circumstance. However, the commission likely would follow a National Labor Relations Board 1992 order, applying federal law to a private employer, and so find. Because section 1007 has not served a continuing practical purpose, and there is uncertainty whether it legally could, its repeal is appropriate.

⁷ Section 1010 has been preempted by Chapter 121, Florida Statutes, the Florida Retirement System Act, participation in which is compulsory for counties.

⁸ Section 1011 renumbered to section 1009, is amended to delete a sentence, which required an initial proposal for the merit system to be presented prior to adoption of the first budget of the charter government. The requirement having been fulfilled, the text no longer is needed.

⁹ Section 1103.4 provides authority for the county council to reduce special district millage to assure adherence to the limitation of 10 mills levy for county purposes provided by article VII, section 9 of the Florida constitution. The special districts subject to the county millage limitation which continue to exist are the East Volusia Mosquito District and the Ponce de Leon Port District, each of which formerly had independent governing boards. Section 1434 of the charter provides that the county council by ordinance may amend the special acts which created those districts. The county council exercised that authority and became the district governing board of both districts. Because the county council now is directly responsible for the levy of these

district millages, the authority provided by section 1103.4 to override the taxing authority of the formerly independent boards is no longer needed.

¹⁰ Section 1104.1 pertaining to bonds issued by former governments, including the board of county commissioners, has fulfilled its intended purpose. There no longer is any outstanding debt within its scope. The section may be repealed.

¹¹ Section 1312 is added to provide that the common law rule of revival by implication does not apply where a repealer is removed from the charter.

¹² Sections 1401-1433 various special taxing districts and authorities are repealed. Former section 1434 is renumbered as 1401.

¹³ Former section 1434 is renumbered as 1401. As renumbered, the section is amended to delete reference to the Halifax Advertising Tax District. Pursuant to section 212.0305(4)(c)3, Florida Statutes, the authority to level the tourist advertising ad valorem tax in the district expired January 1985, the year following the 1984 levy within the district of the convention development tax authorized by that statute.

The authority provided by this section to amend by ordinance the special acts creating the mosquito control and port authority districts has been exercised to provide that the county council is the governing body of both. This section is amended to preclude a different governing body.

AMENDMENT

[Endnotes are for the information of the charter review commission. They are not intended for inclusion in the text of any proposed amendment which the commission may recommend.]

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended in pertinent part as follows:

(Except as provided herein or as otherwise provided by separate amendment, charter provisions not shown are not amended.)

(Words ~~struck~~ are deletions; words underscored are additions.)

ARTICLE III. LEGISLATIVE BRANCH - COUNTY COUNCIL

...

Sec. 304. Compensation.

The salary of a council member shall be 50 percent of that prescribed by law for the office of county commissioner. The salary for the county chair shall be 60 percent of that prescribed by law for the office of county commissioner. The salaries shall constitute full compensation for all services ~~and in-county expenses, except that out-of-county expenses, as permitted by law, shall be authorized.~~

...

Section 307. Powers.

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(4) Adopt by ordinance policies and procedures for payment or reimbursement of expenses by county council members determined by the ordinance to be incidental to official

business, including out-of-county travel; in-county mileage; parking; meals; event admissions; seminar, conference, or training fees; and sundries.¹

(4 5) Adopt, amend and repeal an administrative code by a two-thirds (2/3) vote of the full council.

(5 6) In addition to the state audit provided by law, shall cause an annual independent post-audit by a certified public accountant of any and all government operations of the charter government.

(6 7) Adopt and amend a merit system which shall include a salary schedule for all personnel in accordance with the provisions of this charter.

(7 8) Adopt by a two-thirds (2/3) vote of the full council such rules of parliamentary procedures as shall be necessary for the orderly transaction of the business of the council.

(8 9) The council shall designate which officers and employees shall be bonded and shall fix the amount and approve the form of the bond.

(9 10) Appoint by a two-thirds (2/3) vote of the full council and remove by a majority vote of the full council, the county attorney.

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The title and ballot question shall be as follows:

**AUTHORIZATION FOR
PAYMENT OF IN-COUNTY EXPENSES
OF COUNTY COUNCIL MEMBERS**

Shall the Volusia County Home Rule Charter be amended to provide for payment or reimbursement by the county for in-county expenses of county council members incidental to official business according to policies and procedures to be established by ordinance?

YES - FOR APPROVAL
NO - AGAINST APPROVAL

¹ Section 307(4) is revised to provide authorization for adoption by ordinance of policies and procedures for payment or reimbursement of expenses of county council members determined by the ordinance to be incidental to county business, including out-of-county travel which has been allowed under section 304. Under current charter provisions, county council members have been provided office space, computers, and communication devices. Further, the county council has purchased tables at events where support of an organization was deemed to have a public purpose. The expenses which may be authorized that previously were not allowed include in-county mileage; parking; event admissions; seminar, conference, or training fees; and sundries. Such expenses for example might include events where county council members are individually invited to attend because of their official status, but expected to pay admission or meal charges. Nothing in this section would authorize provision of a vehicle for routine use; or the hiring by the county council member of personal assistants.

AMENDMENT

[Endnotes are for the information of the charter review commission. They are not intended for inclusion in the text of any proposed amendment which the commission may recommend.]

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended in pertinent part as follows:

(Except as provided herein or as otherwise provided by separate amendment, charter provisions not shown are not amended.)

(Words ~~struck~~ are deletions; words underscored are additions.)

ARTICLE IV. ADMINISTRATIVE BRANCH - COUNTY MANAGEMENT

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Sec. 405. Deputy or assistant county managers.

If authorized by the administrative code and approved as a budgetary expenditure, the county manager may appoint one or more deputy or assistant county managers who shall be subject to confirmation by the council and shall serve at the pleasure of the county manager. The requirement for confirmation shall apply to like positions of a different title.¹

Sec. 405 6. - Temporary absence.

The county manager may, subject to the approval of the council, appoint one of the other officers or department heads of the county government to serve as county manager in the manager's absence.

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ARTICLE VI. ADMINISTRATIVE DEPARTMENTS OF THE GOVERNMENT

...

Sec. 602. - Department directors.

The director of each department shall be the principal officer of the department and responsible for all its operations and such division heads as may be necessary. Each director and division head except as otherwise provided in this charter shall be appointed by the county manager subject to confirmation by the council and shall serve at the pleasure of the county manager.

...

The title and ballot question shall be as follows:

**REVISION OF REQUIREMENTS FOR COUNTY COUNCIL
CONFIRMATION OF COUNTY MANAGER APPOINTMENTS**

Shall the Volusia County Home Rule Charter be amended to eliminate a requirement for the county council to confirm county manager appointments of division directors; and to institute a charter requirement that the county council confirm the appointment by the county manager of any deputy or assistant manager?

YES - FOR APPROVAL
NO - AGAINST APPROVAL

¹ It has been common since inception of charter government to have one or more deputy or assistant county managers or a comparable position of chief operating officer. The administrative code currently provides for the position of deputy county manager, of which there have been two since 2001; and for the county manager's appointments to such positions to be confirmed by the county council. The proposed amendment formalizes this code requirement within the charter; and provides that if such positions are created and funded, the appointment by the county manager shall be confirmed by the county council. The proposed amendment also eliminates the charter requirement for confirmation of division directors, recognizing that there is now an additional level of senior management with oversight over county operations, that was not present in initial charter implementation. This change reinforces the position of the county manager as head of the administrative branch of county government, responsible for its daily operation; and aligns the text with the practice of county council not to confirm the appointment of division directors within departments the heads of which are elected.

MEMORANDUM

To: Charter Review Commission

From: Daniel D. Eckert, County Attorney



Date: March 21, 2016

Re: Summary of proposed amendments to Volusia Growth Management
Commission Rules of Procedure

Attached is a summary of the March 16, 2016, draft of proposed amendments to the Volusia Growth Management Rules of Procedure.

Summary of Proposed Amendments to VGMC Rules of Procedure

Draft 3/21/16

Sec. 90-31. Definitions. Amended to include school board as unit of local government; and to characterize school board twenty year work plan as a comprehensive plan.

Sec. 90-341. Application for certificate under the “streamlined” review process; procedure for issuance; public hearing requirements. Added to provide streamlined review for small scale amendments and areas which are the subject of joint planning agreements. An application is reviewed only for sufficiency unless a written objection is filed by a unit of local government. If no objection is filed, the commission’s acknowledgment of complete application serves as certificate of consistency.

Sec. 90-35. Application for certificate for large-scale comprehensive plan amendments; procedure for issuance; public hearing requirements.

Subsection (a) and (b) are amended to exclude applications subject to streamlined review; and to include school board within notice requirement.

Subsection (c) is amended to provide that notice of an application is to be posted on the commission website and mailed to each unit of local government, eliminating newspaper publication; and that a petition for review must be filed within 28 days of receipt of an application, extending the time from 21 days.

Subsection (d) is amended to require that any staff request for additional information be made within 14 days; to deem an adjacent local government as substantially affected; and to limit participation of public and non-substantially affected or aggrieved units of local government to the ability to comment at public hearing.

Subsection (e) and (f) are amended to require commission certification as a prerequisite to adoption only of large-scale plan amendments; and to conform terminology. Notably, the inclusion of the school board as a unit of local government with a comprehensive plan appears unintentionally to have subjected the school board facilities plan to commission jurisdiction.

Subsection (h) is amended to require a determination of the status of a non-adjacent unit of local government as a substantially affected or aggrieved party as the first order of business in a hearing to determine consistency.

Sec. 90-37. Criteria for issuance of a certificate.

Subsection (a) is amended to provide that consistency is to be determined with reference to the comprehensive plans of all other units of local government, effectively an inclusion of the school board. In contrast to subsection (e) below, this subsection retains language imposing the burden of proof on an applicant jurisdiction.

Subsection (b) is amended to provide that consistency is determined by compatibility with plans only of adjacent jurisdictions, essentially a transfer of adjacency text from subsection (a) but an exclusion of substantially affected plans.

Subsection (d) is amended to provide that the commission will not evaluate or determine the internal consistency of a plan.

Subsection (e) is amended to relieve the applicant of the burden of proof to establish consistency, but not to clearly establish what entity does enjoy a presumption or carry responsibility.

Subsection (f) which formerly applied to small scale amendments is deleted.

Subsection (j) is amended to delete reference to a call for public hearing by the commission or a non-unit of local government.

Sec. 90-371. Application for certificate subject to a resolution of the commission. Amended to provide that commission staff may hold a public hearing for applications that are inconsistent with prior conditions established by the commission. Which the text states that the staff is to hold the public hearing, the intention only may be that the staff will request a public hearing.

Sec. 90-38. Intervention. Amended to limit intervention to units of local government.

Sec. 90-40. Appeals. Amended to limit right to seek judicial review to applicant or a unit of local government which has requested public hearing.

Sec. 90-51 and 90-52. Member Appointments and Membership Term. Amended to conform style.

Sec. 90-53. Member Removal, Attendance and Vacancies.

Subsection (1) is amended to conform style.

Subsection (2) is amended to allow the appointed governing body to remove a member by procedures established in its code of ordinances.

Sec. 90-54. Staff. Amended to correct a scrivener's error in spelling.

MEMORANDUM

To: Charter Review Commission

From: Daniel D. Eckert, County Attorney



Date: March 21, 2016

Re: Proposed amendment to charter section 202.3, Volusia Growth Management Commission

Attached are alternative versions of a proposed amendment to charter section 202.3, Volusia Growth Management Commission. Common to each is the premise that the parties to any commission proceeding shall be the county and municipalities. The draft rules of procedure prepared for the growth management commission and distributed to the charter review commission would confer party status on the school board; and require consistency of county comprehensive plan amendments with the 20 year school facilities plan. This proposal impermissibly exceeds the scope of current section 202.3, in my opinion; and potentially conflicts with the exclusive authority granted to section 206 of the charter. Pending your direction, I have not prepared a draft charter amendment which would enable this expanded authority. Such expanded authority could not require the school district to make its facilities plan consistent with local comprehensive plans, as the proposed rule amendments appear to contemplate.

The drafts differ in the permissible scope of growth management commission review and certification as follows. Version 1 provides that the growth management commission has power to determine consistency of a comprehensive plan amendment only upon an objection by the county or a municipality. Version 2 allows commission rules of procedure to dispense with both review and certification of amendments of small scale and of small and large scale where the county and municipality have entered a planning agreement and there is no objection. Version 2 also permits commission rules to dispense with review of other large scale plan amendments where there is no objection to a plan amendment; and in such circumstance authorizes commission certification by administrative action. Both versions show these potential changes in red.

I have included text in blue in both versions for three concepts which I suggest for your consideration: first, that the county council shall have the power to adopt and amend rules of procedure which have not been initiated by the commission, but upon which an opportunity for commission advice is required; second, that the allowable terms be reduced from four years to two years, and that the appointing governing body be given authority to remove their appointees for cause; and third, that the unincorporated area shall have a single representative.

The first proposal allows the county council to exercise its legislative authority to implement the charter amendment with growth management commission advice but without dependency on a commission proposal. Any rules that the county council adopts must apply uniformly to the county and municipalities. The second varies from the draft rule changes proposed by the growth management commission which would allow member removal at the will of the governing body. If the commission is to retain a quasi-adjudicative function, some independent judgment and term of office seems necessary for such function. A two year term seeks to balance the need for governing body review of its appointee. The third recognizes that the weighted vote of each unincorporated area member is much smaller than when the commission was organized; and unifies and strengthens the voice of the sole unincorporated member.

AMENDMENT

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended effective in in pertinent part as follows:

(Except as provided herein or as otherwise provided by separate amendment, charter provisions not shown are not amended.)

(Words struck are deletions; words underscored are additions.)

ARTICLE II. - POWERS AND DUTIES OF THE COUNTY

...

Sec. 202.3. - Volusia Growth Management Commission.

There is hereby created the Volusia Growth Management Commission (hereafter commission). Upon an objection by the county or a municipality, ~~¶~~ the commission shall have the power and the duty to determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other. The commission may perform such other directly related duties as ~~the commission from time to time deems necessary~~ may be provided by the rules of procedure to be adopted pursuant to this section.

The parties to any commission proceeding shall be limited to the county and municipalities. The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law to which an objection has been made shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent. The review of any such determination of the commission shall be by certiorari.

The commission shall be composed of voting and nonvoting members. There shall be one voting member from each municipality within the county and ~~five voting members from~~ the unincorporated area of the county. The appointment of each voting representative shall be made by the governing body of each respective jurisdiction. The Volusia County School Board, the St. Johns River Water Management District, and ~~the Volusia County Business Development Corporation~~ Team Volusia Economic Development Corporation shall each designate one nonvoting member to serve on the commission. The term of office of the commission members shall be fixed by the rules of procedures of the commission but shall not exceed ~~four~~ two years. Such rules may provide for removal of a commission member automatically for non-attendance or for removal for cause shown to the governing body which shall have appointed such member or both; however cause shall not include an exercise of judgment based on the record presented to the commission.

Each voting member shall have a weighted vote. Each municipality represented shall have a vote equal to the percentage of its population with the overall county population. The unincorporated area ~~representatives' combined~~ vote shall ~~not exceed equal~~ the percentage of the unincorporated area's population ~~with of~~ the overall county's population, ~~and the individual vote of each unincorporated area representative shall be equal to the other.~~ The determination of the weight of each vote shall be determined annually.

The county council, shall adopt or amend by a two-thirds vote of its membership, Rrules of procedure for ~~the commission's consistency review and for~~ the manner in which this section is to be enforced and implemented, ~~and amendments thereto, shall be proposed by the commission and rules shall not become effective until adopted by ordinance approved by a two-thirds vote of the entire membership of the council.~~ The commission shall have the opportunity to advise on such rules. The rules of procedure shall provide for the same review and certification of county and municipal plan amendments. The ordinance adopting the rules of procedure shall prevail over conflicting provisions of any municipal ordinance.

The commission, by a two-thirds vote, shall adopt an annual budget which may provide for independent staff and which shall be funded by the county. The budget may be amended upon two-thirds vote of the full council.

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The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended effective in in pertinent part as follows:

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The parties to any commission proceeding shall be limited to the county and municipalities. The determination by the commission shall be binding on the submitting government. No plan, element of a plan, or amendment of a plan adopted after the date this article becomes law for which the commission has the power and duty to determine consistency shall be valid or effective unless and until such plan, element of a plan, or amendment has been reviewed by the commission and has been certified as consistent. ~~The~~ Judicial review of any such determination of the commission shall be by certiorari.

The rules of procedure to be adopted pursuant to this section may dispense with both commission consistency review and certification of any small scale plan amendment where the county and a municipality shall have entered into a planning agreement. The rules also may dispense with consistency review of all or certain categories of plan amendments where notice required by such rules has been given to the county and all municipalities, and either there shall have been no request for such review or any request shall have been withdrawn, in which events the commission rules may provide for consistency certification by administrative action.

The commission shall be composed of voting and nonvoting members. There shall be one voting member from each municipality within the county and ~~five voting members from~~ the unincorporated area of the county. The appointment of each voting representative shall be made by the governing body of each respective jurisdiction. The Volusia County School Board, the St. Johns River Water Management District, and ~~the Volusia County Business Development Corporation~~ Team Volusia Economic Development Corporation shall each designate one nonvoting member to serve on the commission. The term of office of the commission members shall be fixed by the rules of procedures of the commission but shall not exceed ~~four~~ two years. Such rules may provide for removal of a commission member automatically for non-attendance or for removal for cause shown to the governing body which shall have appointed such member or both; however cause shall not include an exercise of judgment based on the record presented to the commission.

Each voting member shall have a weighted vote. Each municipality represented shall have a vote equal to the percentage of its population with the overall county population. The unincorporated area ~~representatives' combined~~ vote shall ~~not exceed equal~~ the percentage of the unincorporated area's population ~~with of~~ the overall county's population, ~~and the individual vote of each unincorporated area representative shall be equal to the other.~~ The determination of the weight of each vote shall be determined annually.

The county council, shall adopt or amend by a two-thirds vote of its membership, Rrules of procedure for ~~the commission's consistency review and for~~ the manner in which this section is to be enforced and implemented, ~~and amendments thereto, shall be proposed by the commission and rules shall not become effective until adopted by ordinance approved by a two-thirds vote of the entire membership of the council. The commission shall have the opportunity to advise on such rules. The rules of procedure shall provide for the same review and certification of county and municipal plan amendments. The ordinance adopting the rules of procedure shall prevail over conflicting provisions of any municipal ordinance.~~

The commission, by a two-thirds vote, shall adopt an annual budget which may provide for independent staff and which shall be funded by the county. The budget may be amended upon two-thirds vote of the full council.

...

MEMORANDUM

To: Charter Review Commission

From: Daniel D. Eckert, County Attorney



Date: March 22, 2016

Re: Proposed amendment to charter section 202.3, Volusia Growth Management Commission (Revised)

Attached for better clarity is a revised version 1 of a draft amendment to section 202.3 with proposed changes in red. Version 1 essentially is that discussed at the March 14, 2016, meeting.

Also attached for any discussion that the commission may choose are other possible changes shown in blue.

AMENDMENT

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended effective in in pertinent part as follows:

(Except as provided herein or as otherwise provided by separate amendment, charter provisions not shown are not amended.)

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Each voting member shall have a weighted vote. Each municipality represented shall have a vote equal to the percentage of its population with the overall county population. The unincorporated area representatives' combined vote shall not exceed the percentage of the unincorporated area's population with the overall county's population, and the individual vote of each unincorporated area representative shall be equal to the other. The determination of the weight of each vote shall be determined annually.

Rules of procedure for the commission's consistency review and for the manner in which this section is to be enforced and implemented, and amendments thereto, shall be proposed by the commission and rules shall not become effective until adopted by ordinance approved by a two-thirds vote of the entire membership of the council.

The commission, by a two-thirds vote, shall adopt an annual budget which may provide for independent staff and which shall be funded by the county. The budget may be amended upon two-thirds vote of the full council.

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