CRC Member Submittals

KEN PARKER

[BEGIN K. PARKER]

My first reaction to the County Charter that it is very detailed. Some of the items in the Charter, in my opinion, should be handled by Ordinance/Resolution rather than be included in the Charter. Last night, Commissioner Ingram stated that we should be taking a 40,000 foot view of the Charter, not the day-to-day operations. Many of the suggestions that came up during the citizen listening session related to day-to-day operations or could be handled by Ordinance and should not be included in the Charter.

1. Last night, the Charter Review Committee talked briefly about changing the name from Council to Commission. I am aware that the name of Volusia's governing body is different than the others in the State. There is a history and reason for why the initial Charter group chose to name the governing body Volusia County Council rather than Volusia County Board of County Commissioners. Prior to the Charter, the governing body was known as Board of County Commissioners. What the Charter group was proposing was a complete change. They wanted the people of Volusia County to known that the old was being totally replaced with something new. It was good government, not the old system. So there was more to the name change than just the name. It was an indication of a complete and total change. They were removing ties to the past and any indication that the charter would be business as usual. Secondly, there is a form of government that is called the Commission form of Government. At least one member of the original Charter Review group would have been aware of the Commission form of government. The Commission form of government is radically different than the form of government that is designated in the County Charter. Although I do not have the minutes of meetings of that original Charter group when the name of the governing body was discussed, they may have wanted to avoid confusion when they were proposing a major change to the form of government. Third, today, the names are used interchangeably. In fact, there are some Volusia cities whose governing body are designated as Commission in their City Charters.

Follow-up: The name of the County Council is found throughout the Charter. The Council may be renamed to a Commission.

2. Amendment 10 changed several things as it relates to elected offices. I believe that we should clean up those sections in the Charter to make them consistent with the State Constitution. The current Charter refers to certain officers as elected Department Heads. That was changed by Amendment 10. Under Amendment 10, the Tax Collector was established as an elected official. Under Amendment 10, did the Chief Financial Officer/Comptroller duties move from being under the

County Manager to the Clerk of the Court in Volusia. I know that in some Counties the Clerk of the Court performs these duties. It may be good for the Committee to have a better understanding how the changes as a result of the adoption of Amendment 10 changed the relationship between those Elected Officers and the County Council and County Manager.

Follow-up: The Florida Constitution governs the County regardless of whether the language is updated in the Charter. However, the Charter language may be proposed for amendment as discussed in exhibit B from the last meeting.

3. Form of Government- Volusia County, like many Florida Counties and most of the cities in Florida, Volusia operates under the Council-Manager Plan. Does the Commission desire to have a presentation on how the form of government works? In one of my other volunteer roles, I have made such presentations to Charter Review Commissions as they reviewed their Charters. Those Charter Review Commissions just wanted to be sure that they understood the form of government and how it worked under their Charter. Except for some small cities in Volusia, all Volusia County cities operate under the Council-Manager Plan.

4. Elected Chair- Some years ago, the Charter Review Commission proposed and the voters adopted an amendment to the Charter providing for the Chair of the County Council to be elected. Prior to that time, the Chair was elected by the members of the County Council. Does the Commission desire to review the elected chair?

5. I know that previous Charter Commissions have recommended changes to the in-county travel. The voters have rejected this before. Do we want to continue placing this item before the voters?

6. Language in Article 6 seems to be out of date. To me it is clutter.

Follow-up: Some of the language in article 6 would be changed in a cleanup amendment to reflect Amendment 10 to the Florida Constitution as discussed in number 2 and exhibit B. For example, §§ 601.1(1)(a) and 602.1. Generally, the remainder of the language is necessary as it reflects the role of the clerk of court.

7. Section 1004 is entitled Human Resources Director. It is sort of strange to have a Department Director's qualifications set out in the Charter. Section 1005 discusses unclassified and classified service. Notice sub-section e. "One aide, appointed by the by the director, for each of the administrative departments." That is under the section for unclassified service. Does that mean only two people in an operating Department are unclassified, the Director and one other person? How did Amendment 10 change 1005.2. Also, is the personnel board still active and if so does it operate according to Article 10.

Follow-up: When the Charter was created, it established a county structure and a civil service system for employees called a "merit system." That merit system is implemented by the Council in the form of an ordinance. The role of the human resources director is established by the Charter and his or her duties are set forth in the merit rules ordinance (i.e. sections 1004, 1004.1 and 1004.2). You could repeal the section that establishes the qualifications of the human resources director in § 1004.1 and leave that to the Council. Section 1005 divides employees into two categories: unclassified (managerial with fewer merit rule protections) and classified. It defers to the merit rules ordinance to establish other managerial positions to be unclassified. I was unable to locate a § 1005.2 of the Charter. But the personnel board remains active and recently had a hearing.

8. Section 1309 relates to Ineligibility for appointment. Does this include lobbying the County Council or the County? Do we need a provision concerning lobbying? Is there a County Ordinance that sets out lobbying requirements of former elected officials and former employees?

Follow Up: Section 1309 applies to former Council Members and prohibits compensation in a County office or employment for a period of 1 year. There is not a Charter provision regarding lobbying after leaving office or employment but there are state laws that govern it. There is a post office lobbying prohibition on former elected local officers for 2 years in section 112.313(14). There is another prohibition in the Florida Constitution which was adopted in 2018 that provides a post-office lobbying prohibition for 6 years and applies restrictions on identified public officials. There is pending litigation on that amendment in federal court.

[END K. PARKER]

JENNIFER BRIGHT

[BEGIN J. BRIGHT]

1. Sec. 202. Special.

(2) *Salaries.* The county shall have the power to fix the salaries of all officers and employees, except as otherwise provided by this charter.

Can the salaries be reduced or capped, for example by a percentage (%) above the state or national average?

Follow Up: The County could impose salary caps; however, this would require amendments of current ordinances and may impermissibly interfere with collective bargaining and union contracts. Section 86-101-115 of the County's Code of Ordinances currently provides the method and system by which the County establishes compensation rates, ranges, and adjustments. Additionally, unions control compensation for their members through negotiated contracts. The compensation plan is approved by the council.

2. (3) *Abuse of the environment.* The county shall prevent the development or use of land or the commission of other acts by persons, partnerships or corporations which will tend to destroy or have a substantially adverse effect on the environment of the county. Such destruction or adverse effects may include any or all of the following:

Add a (c) under this heading.

(c) flooding due to development, improper land grading, or fill

Follow up: Subsection (3), is broad enough to encompass the type of environmental damage identified. Because it would apply within the cities, the Council would need to place this topic on the ballot. Also, SB 180 would prevent enactment of this or a similar amendment at this time.

3. Sec. 202.3. Volusia Growth Management Commission.

There is hereby created the Volusia Growth Management Commission (hereafter commission). 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.

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 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 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 years.

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 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.

This whole section gives way too much power to non-elected persons, a budget another unwarranted expense for the residents.

This whole section could be removed or replaced with something like " all comprehensive plans for the county and its municipalities should only contain the bare minimum required by state statue."

Follow up: The 2016 Charter Review Commission discussed the VGMC. The VGMC is not legally required. However, dictating the content of a municipal comprehensive plan cannot be placed on the ballot by the CRC because it has preemptive land use effect on municipalities. The County Council would have to propose such an amendment. Also, SB 180 would prevent it at this time.

4. Sec. 202.4. Minimum standards for environmental protection.

   Are these minimum standards not already in state statute or federal law? If so this whole section is redundant and should be removed.

Follow Up: This section is not redundant of federal or state standards, which may be less restrictive than County minimums. However, the provision can be repealed. As an example of how the County has implemented this provision, please see Article III of Chapter 50 of the County's Code of Ordinances, pertaining to minimum standards for environmental protection, which is effective throughout the county, including within the incorporated areas.

5. Sec. 205.2. Unified Beach Code.

   The council shall have the power and it shall be its duty to enact an ordinance, to be known as the Unified Beach Code ("code"), comprehensively regulating public health, safety, and welfare on and pertaining to the beach, including, but not limited to, regulation of: individual conduct; pedestrian safety; vehicular access and fees; operation and parking of vehicles on beaches and approaches; and vendors, concessionaires, and special events.

   Doesn't this ordinance already exist? If so can this not be removed form the charter?

Follow Up: This provision may be repealed. However, this Charter provision is in accordance with § 161.58, Florida Statutes, and is the reason we are able to allow beach driving and provide the County regulatory authority over the beach.

6. Sec. 206. School planning.

   The county council shall provide no later than September 30, 2007, by ordinance that any county or municipal comprehensive plan amendment or rezoning allowing increased residential density may be effective only if adequate public schools can be timely planned and constructed to serve the projected increase in student population. Any ordinance implementing this section shall respect the constitutional authority of the school district to operate, control, and supervise its public schools. Any ordinance implementing this section shall prevail over conflicting municipal comprehensive plan, ordinance or resolution provisions.

   Since this date has already passed, should this not be removed?

Follow Up: This charter provision is necessary to uniformly implement school planning (concurrency) throughout the county and establishes that the county's rules regarding school concurrency prevail over local ordinances addressing the same subject. Absent this provision, municipalities would no longer be bound by school concurrency and could opt out if they so desired. The default rule in Florida is that municipal ordinances prevail over county ordinances within municipal boundaries unless the county's charter provides otherwise.

7. Sec. 301.1. Council districts.

After every decennial census and prior to the next ensuing general election, the council shall prepare a plan for the reapportionment of the five districts to insure division into contiguous territory as nearly equal in population as practicable. The council shall review and adopt the reapportionment plan as an ordinance by a two-thirds vote of the full council. If the council is unable to complete the reapportionment of the council districts within six months after the official publication of the census, the county attorney upon authorization of the council or petition of twenty-five electors of the county shall petition the circuit court having jurisdiction in the county to make such reapportionment.

Sec. 303.1. District council members.

Each council member elected from a district shall be elected for a term of four years. Members from even numbered districts shall be elected in years the numbers of which are multiples of four. Members from odd numbered districts shall be elected in years the numbers of which are not multiples of four. As an exception, at the election following a reapportionment, all districts shall elect council members and the districts not otherwise scheduled herein for election shall elect members for two-year terms.

Change reapportionment to redistricting.

Follow Up: Changing the name of the process to establish Council districts after a Census is allowed.

8. Sec. 306.2. Location of meetings.

The council shall meet at the county seat except that it may determine from time to time, the place or places within the county at which the council shall meet for the purpose of conducting its business, provided that notice of the time and place shall be published in a daily newspaper of general circulation in the county at least

one (1) week prior to the holding of any such meeting outside the county seat. Such notice shall contain an agenda of all matters to be acted upon.

This could be rewritten to have a predetermined amount of council meetings in the East part of the county, let us say the Ocean Center.

Follow up: The Charter provides that Council meetings shall be in the county seat but authorizes meetings elsewhere in the County, as the Council determines from time to time. Meetings outside the County seat require that additional minimum notice be provided to the public in advance of the meeting. *See* § 306.2, Charter. This was also addressed in exhibit A in the October agenda packet.

9. Sec. 307. Powers.

(2) Adopt such ordinances as may be necessary to carry out both county and municipal powers and purposes.

Informational: Are adopting such ordinances by simple majority?

in the charter?

Follow up: Pursuant to § 308 of the charter, adoption of ordinances, resolutions, and motions is accomplished by simple majority unless a higher voting threshold is required. If the ordinance is a land use matter, there is an issue with SB 180 at this time if that threshold is increased.

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

Informational: Is there a copy of the merit system? If this does exist does it still need to be

Follow up: The merit system is codified in Chapter 86, Article II. The merit system is a civil service system for personnel matters involving employees.

11. Sec. IIIA.1. County attorney.

There shall be a county attorney who shall be appointed by the council and who shall serve at the direction and pleasure of the council.

Informational: Is this done with when there is council change? Or only once and done again when the existing attorney leaves the position?

Follow Up: The County Attorney serves at the will of the County Council.

12. Sec. IIIA.3. Temporary absence.

Informational: What constitutes "Temporary Absence" example does HR have something that defines this? If not it should be defined here? if not somewhere.

Follow Up: Temporary absence is as it is understood in its plain meaning – *i.e.,* any absence short of a permanent absence such as death or termination versus temporary absences such as vacations, medical, or family leave. The provision allows a written delegation of authority necessary to carry out day-to-day operations.

13. Sec. 401. County manager.

There shall be a county manager who shall be appointed by the council and who shall serve at the pleasure of the council.

Informational: Is this done with when there is council change? Or only once and done again when the existing attorney leaves the position?

Follow Up: The County Manager serves at the will of the Council.

14. Sec. 405. Temporary absence.

Informational: What constitutes "Temporary Absence" example does HR have something that defines this? If not it should be defined here if not somewhere.

Follow Up: Temporary absence is as it is understood in its plain meaning – *i.e.,* any absence short of a permanent absence such as death or termination versus temporary absences such as vacations, medical, or family leave. The provision allows a written delegation of authority necessary to carry out day-to-day operations.

15. Sec. 601.1. Functions and duties of departments receiving powers of former constitutional officers.

Informational I thought the offices of the sheriff, tax assessor, supervisor of elections, why does it state within this section that the constitutional office shall thereupon be terminated?

(2) *Department of public safety:* The department of public safety shall be responsible for the control, operation and administration of the duties of law

enforcement and such other duties provided by this charter. All functions and duties now prescribed by the Constitution and laws of Florida for the office of sheriff are hereby transferred to the department of public safety, and the constitutional office shall thereupon be terminated,

(3) *Department of property appraisal:* The department of property appraisal shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of property appraiser (tax assessor) and all such functions and duties are hereby transferred to this department and the constitutional office shall thereupon be terminated.

(4) *Department of elections:* The department of elections shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of supervisor of elections and all such functions and duties are hereby transferred to this department and the constitutional office shall thereupon be terminated.

16. Sec. 602.1. Election of directors.

The directors of the following departments shall be elected every four (4) years at the general election:

(1) The sheriff, who shall serve as the director of the department of public safety.

(2) The supervisor of elections, who shall serve as the director of the department of elections.

(3) The property appraiser, who shall serve as the director of the department of property appraisal.

If this is mandatory per state statue, could we not remove from the charter as it is redundant

Follow Up: Changes to incorporate Amendment 10 were identified in Exhibit B in the October agenda packet. The change is not required but can be made, because the Florida Constitution controls regardless.

17. Sec. 1001. Merit system.

There shall be a merit system for the employees of the charter government. The council shall enact such ordinances as may be necessary to fully implement the merit system.

Informational have ordinances be passed so the merit system is fully implemented?

Follow Up: Yes – Chapter 86, Article II is the fully implemented merit system. Keeping this provision requires a merit system for employees to be in place.

18. Sec. 1002. Employment policy.

The merit system shall provide for the qualifications and shall through the personnel department, under the direction of the personnel director, certify personnel for employment, promotion, demotion, transferral, dismissal and compensation, solely on the basis of merit and qualification without regard to religion, political affiliations, race, color, sex, national origin or any other circumstances other than merit and qualification

Informational is this the same merit system listed in Sec. 1001?

Follow Up: Yes.

19. Sec. 1005. Unclassified and classified service.

(c) Aides to the county manager, in the operation of his immediate office.

(e) One aide, appointed by the director, for each of the administrative departments.

(f) Members of advisory boards, commissions and committees appointed by the council or county manager.

(j) And such other managerial positions as shall be determined by the personnel board.

Remove (c), (e), (j) item (f) remove or county manager.

(3) The determination of the personnel board shall be final as to whether offices and positions are under classified service.

Remove (3) as (1) and (2) already define what positions are under classified service.

Follow Up: There is no legal requirement for positions to be at will or subject to merit system. This is an operational matter.

20. Sec. 1302.3. Amendment referendum.

Any such amendment as proposed in section 1302.1 or 1302.2 shall be subject to referendum and notice of said referendum, together with the exact language of the proposed amendment, shall be published twice in a newspaper of general circulation in the county at least thirty (30) days prior to the referendum at the next general election. Passage of proposed amendments shall require approval of a majority of electors voting in said election.

With the technology growing and print papers becoming outdated, these announcements need to be published in more than a newspaper.

Follow Up: The charter's notice requirements track the requirements of the Florida Statutes for newspaper notice, but these could be updated to include website advertising requirements; however, such requirements would have to meet the minimum standards prescribed for websites and online advertising as prescribed by § 50.0311, Florida Statutes.

21. Sec. 1303. Charter review.

The charter review commission shall consist of the same number of persons and shall be appointed in the same manner as shall be provided by general law for the appointment of charter commissions in counties without charters. The commission shall be appointed at least once every ten (10) years to review the charter and ordinances of the county. The commission shall be appointed not more than eighteen (18) months prior to the next succeeding general election. The commission shall be funded by the council and shall be known as the "county charter review commission." It shall, within one (1) year from the date of its first meeting, present to the council any recommendations for amendment of the charter. After receipt of the charter review commission's recommendations, the council shall conduct a series of not less than three (3) public hearings on the recommended changes to the charter and shall thereafter schedule a referendum on the proposed charter amendment at the next general election.

Informational have dates for the minimum 3 public hearings on the recommended changes been selected yet?

Follow Up: Final dates have not been set, but these meetings must occur prior to 2026 deadline for ballot certification by Supervisor of Elections for the November general election. Much depends on when the CRC provides its final report to the Council.

22. Sec. 1306. Legal actions involving the county.

In any legal action by or against the county, its departments, or officers or employees of their office or employment for the county, the county as a corporate body shall be the party named and shall appear and participate in the cause on behalf of the department, officer or employee in such cause. Wherever the tax collector, tax assessor, supervisor of elections, board of county commissioners or sheriff may or shall be parties to any legal action, the county shall be substituted as such defendant.

Follow Up: After Amendment 10, the County is no longer the proper party to be named in all lawsuits. This is addressed in the options presented to the CRC to clean up the Charter to reflect Amendment 10 in exhibit B of the October agenda packet. However, the change does not need to occur legally because it is in the Florida Constitution.

23. Sec. 1311.1. Petition.

The Volusia County charter may be repealed in the following manner:

(1) By filing with the county manager a petition to the county council requesting the repeal of the Volusia County charter and that a charter repeal commission be appointed in accordance with section 1311.2 of this charter; and signed by such number of registered electors of Volusia County as shall represent among such signers all of the following:

(a) Fifteen percent (15%) of the electors of Volusia County, Florida as of the date of the filing of the petition.

(b) Fifteen percent (15%) of the electors residing in each of such numbers of the voting precincts of Volusia County as shall together be the residence of not less than a majority of the registered electors of Volusia County as of the date of the filing of the petition.

Should we not be consistent with the percentages and use the same that are in Sec. 1302.2 which is five percent?

Follow Up: There is no legal requirement for a lower threshold for amendment versus repeal.

24. Can some type of a trigger be written into the charter that states if SB180 is repealed or changed in such a way that the items the charter review committee

were not allowed to change can now be changed that another charter review committee be called within a certain amount of time even if it is before the 10 years?

Follow Up: No. Broward County attempted something similar when it passed an ordinance regulating firearms but included the language "to the extent not preempted by state law" as a means of saving the ordinance. The 4th District Court of Appeals still struck the law, noting that if an area of law has been preempted by the state, the county cannot legislate on the subject at all, regardless of inclusion of a caveat such as "to the extent not preempted." *Broward County v. Florida Carry,* 313 So.3d 635 (Fla. 4th DCA 2021). The text of SB 180 states, in pertinent part, that a "local government may not *propose or adopt*" a more restrictive or burdensome amendment to its comprehensive plan or land development regulations OR a more restrictive or burdensome procedure concerning review, approval, or issuance of a site plan, development permit, or development order. § 252.422(2)(b) and (c), Florida Statutes. Regardless of the conditions of effectiveness, any such proposal would concern such subject matter and be preempted.

[END J. BRIGHT]

PATRICIA NORTHEY

[BEGIN P. NORTHEY]

Submitted by Charter Member Patricia Northey

10/22/2025

Please know I am not specifically endorsing any of these ideas but adding them to the general discussion as requested by members of the public from conversations held specifically and/or in casual conversion about the work of the Commission.

Charter Review items for discussion

1. Return the Chairman's position to election within the body politic.

2. Make all 7 seats district seats. Eliminate the additional At Large seats all together if you elect the chair within the body.

3. If the elected Chair is reaffirmed, redistrict the remaining At-Large position to a district seat. You would have an elected chair as we have now but make the remaining At Large position a district seat. You would have 6 districts.

4. Pay Council full state rate.

Follow-up: State law publishes the current salaries for elected officials. Section 304 of the Charter provides for limits to Council Member compensation:

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.

Changes to these limits were proposed by the Charter Review Commission in 2006 but failed at referendum. These limits may be proposed to be changed.

5. Provide travel and cost of serving benefits to council members.

Follow-up: Section 304 of the Charter provides that Council Members are responsible for their in-county expenses but are reimbursed for out-of-county expenses. Changes to this limit were proposed by the Charter Review Commission in 2016 but failed at referendum. These limits may be proposed to be changed.

6. Charter provision requiring majority approval for "excused" absences for elected officials. (Charter Holly Hill)

Follow-up: Counties may not provide for the removal of county council members, because removal is regulated by the Florida Constitution and state law (and thereby preempted). The County may provide an attendance policy but has no authority to remove a duly elected or appointed sitting council members. *See* AGO 85-52.

7. Existing in the Charter: However, I believe we need to discuss enforcement of this amendment.

Sec. 50-75. - Remedies on failure of municipality to adopt or enforce standards.

In the event a municipality does not enact or enforce the minimum standards contained in this article, the county council may bring suit in the appropriate circuit court to enjoin by mandamus any municipality to require said municipality to adopt such minimum standards for protection of the environment in conformity with article II, section 202.4 of the Charter of the county. This article may also be enforced by any other manner as provided by law.

8. Protecting Conservation Lands

Among the county's most valuable assets is a rich mosaic of conservation lands which now totals over 50,000 acres. These lands were acquired through bond issues overwhelmingly approved by the voters in 1986, 2000, and 2020. Indeed, the 1986 bond issue was the first in the nation and the county is among the very few who have had approved three conservation referenda. In each of these referenda, the voters were promised that lands acquired with these funds would be protected in perpetuity.

Of course, these are not the only conservation lands in Volusia County. Canaveral National Seashore and Lake Woodruff National Wildlife Refuge were established by Congress and protected under federal law. Our several state parks are now protected by the Florida State Park Preservation Act, passed by the legislature earlier this year. Indeed, all lands held by the state and water management districts for conservation purposes are protected by Art X Sec. 18 Florida Constitution which requires a finding that the lands are no longer needed for conservation purposes and required a supermajority vote to approve release. There is no such protection for county conservation lands.

Over the last year there have been several instances where protection of conservation lands was in jeopardy. A proposal to build hotels and golf courses in state parks led to the passage of the State Park Preservation Act. The

Governor and Cabinet tentatively approved release of a state forest for a golf course, but public opposition stopped it. Recent Cabinet agendas have included a trade of conservation lands and amendment of a conservation easement for a mitigation bank. Earlier this year the Fish and Wildlife Conservation Commission released an easement over a gopher tortoise mitigation bank to allow for an expressway. The SJRWMD has released their interest in several conservation easements. All these actions erode the trust that voters have in protection of conservation lands.

Considering these controversial issues and concerns, some local governments have used their home rule authority to try to protect conservation lands.

In Orange County, the county attorney opined that the constitutional restriction on release of conservation lands did not apply to local government. Their charter review commission proposed, and the voters ratified a charter amendment to specifically protect Split Oak Forest.

In Alachua County, a charter amendment was adopted to create a "registry" for the most vulnerable lands acquired through their Alachua Forever Program. Lands placed on the registry can only be sold off by approval of the voters.

Palm Beach County Commissioners recently approved a resolution to add an accredited land trust to hold conservation easements over 30,000 acres of county owned conservation lands to ensure that future county commissions don't sell off conservation lands.

The 2000 Bond issue was approved by the county council by resolution stating, "the history of Volusia County is marked with efforts to conserve the County's unique ecological character and to preserve valuable ecosystems for future generations." The name of the program as it appeared on the ballot was "Volusia Forever." If "forever" is to have any true meaning, there must been protections within the charter to assure these lands are protected in perpetuity. These lands are our legacy for future generations and among our most valuable natural assets and should be protected for all time.

The following is offered as proposed language:

outdoor recreation lands, which are managed for conservation or resource-based recreation purposes. All such lands shall be held and managed for conservation purposes in perpetuity. No portion of such lands shall be sold or surplused unless the county council adopts a resolution by a supermajority vote finding that the lands are no longer needed for conservation purposes, and only effective upon ratification by majority vote of the electors at the next general election.

Follow Up: Orange County recently adopted (2024) a similar charter amendment, § 714 of the Orange County Charter, which defines "county protected lands," and requires that "any action of the board authorizing the disposition of any County Protected Lands, or any portion thereof, or the change of any County Protected Lands. or any portion thereof, to another use must be approved by an affirmative vote of not less than a majority plus one of the entire membership of the board." Regardless, this provision does not require a referendum in addition to the majority plus one vote of Orange County's Commission.

Similarly, Article 10, § 18 of the Florida Constitution was adopted in 1998, and requires that "the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board." Also, no referendum is required in this provision.

As noted, § 1.7 of the Alachua County Charter, adopted in 2008, provides for a registry of properties owned by the county, which have been acquired for conservation, recreation, or cultural purposes, and that are deemed by Alachua's board of county commissioners to be worthy of protection. Under the charter, properties are added to the registry by a majority plus one vote of the commission. Once on the registry, those properties may only be sold or converted to a use "that will result in a loss of a value or values for which the property was placed on the registry," subject to a majority vote of the electors in a referendum.

Presently, §§ 125.35 and 125.38, Florida Statutes, govern the disposition of county-owned real property within the state.

§ 125.35 states that, subject to certain exceptions, "the board of county commissioners is expressly authorized to sell and convey any real or personal property, and to lease real property, belonging to the county, whenever the board determines that it is to the best interest of the county to do so, to the highest and best bidder for the particular use the board deems to be the highest and best, for such length of term and such conditions as the governing body may in its discretion determine." The statute generally requires that any sale of property be preceded by notice published once a week for two weeks in a newspaper of general circulation and that the sale be advertised by solicitation, with

the sale going to the bid of the highest bidder complying with the terms and conditions set forth in such notice shall be accepted, unless the board of county commissioners rejects all bids because they are too low.

Regardless of the requirements of § 125.38, Florida Statutes, § 125.38(3) notes that as an alternative, a board of county commissioners may, by ordinance, prescribe disposition standards and procedures to be used by the county in selling and conveying any real or personal property and in leasing real property owned by the county. The alternate standards and procedures must provide at a minimum for:

(a) Establishment of competition and qualification standards upon which disposition will be determined.

(b) Reasonable public notice of the intent to consider disposition of county property and the availability of copies of the standards. Reasonableness of the notice is to be determined by the efficacy and efficiency of the means of communication used.

(c) Identification of the form and manner by which an interested person may acquire county property.

(d) Types of negotiation procedures applicable to the selection of a person to whom county properties may be disposed.

(e) The manner in which interested persons will be notified of the board's intent to consider final action at a regular meeting of the board on the disposition of a property and the time and manner for making objections.

(f) Adherence in the disposition of real property to the governing comprehensive plan and zoning ordinances.

§ 125.38 provides for the conveyance or lease of property owned by the county when such is sold to a governmental or nonprofit entity for public or community interest and welfare purposes. Under § 125.38, a competitive solicitation process is not required. Upon application of the governmental or non-profit entity for purchase or lease of county property, the county's governing board is required to determine whether such use is no longer needed for county purposes. If the board determines that the property is no longer needed, the board may convey or lease the same at private sale to the applicant for a price, whether nominal or otherwise, as such board may fix, regardless of the actual value of such property.

In both statutes, the county council is required to make the decision as to whether the property is to be conveyed or leased. The attorney general has opined that disposition of county property is controlled by §§ 125.35 and 125.38, Florida Statutes. *See* AGO 2011-11 and 1983-19. The 4th DCA similarly has determined that while § 125.01, Florida Statutes, broadly provides the County with the authority to carry on county government

to the extent not inconsistent with general or special law, the procedural requirements for the sale and lease of real property under § 125.35 govern and control over the more general terms of § 125.01, Florida Statutes. *Pandya v. Israel*, 761 So. 2d 454 (Fla. 4th DCA 2000). A referendum requirement appears to directly conflict with the requirements of these statutes. However, a heightened voting threshold to dispose of certain county-owned property appears plausible. More research is required to determine whether the disposition of county property may be subjected to referendum.

[END P. NORTHEY]

JAMES CLAYTON

[BEGIN J. CLAYTON – PROPOSAL FORWARDED FROM LLOYD BOWERS, CITIZEN]

Proposed Amendment to Chapter 34 of the Volusia County Charter

1. Since 1989, Volusia County has supported the cultural arts through the Cultural Grant program, a part of the County's Comprehensive Plan. Chapter 18, titled **Cultural Element**, provides that the County shall maintain the viability of cultural facilities and opportunities by assisting the relevant sponsoring organizations through an annual budget appropriation in the general fund, which is disbursed through competitive grants to local cultural arts organizations to be used for operating expenses, programming and limited capital expenditure. Since 2012, the amount allocated for all grants has been $611,758.00 each fiscal year. The annual grants make up 0.04% of the County's annual $1.4 billion dollar budget, but in return, the County receives an economic investment of over $13 million dollars in annual spending by and through the funded arts organizations, including funds spent by both County residents and tourists, which represents a $2.00 return for every County $1.00 invested. volusiaculture.org

   For the past two years, the County Council has sought to eliminate this funding. At the council meeting on October 21, 2025, the council acted by denying the funding of the grants for 2025 - 2026 (although the funds are already in the budget), and have asked staff to determine whether there are any other funds, other than the general fund, to shift the grants, and if not, to eliminate the program.

   The current charter contains a chapter, Chapter 34, titled **Civic and Cultural Affairs**. Section 1 is reserved and Section 2 provides for **Art In Public Places**. This chapter could include the cultural funding program as a separate section, which would preserve the program and would remove further attempts for its elimination.

   The cultural grant program is important for the following contributions made to the Volusia County residents:

   - **Children:** Arts education boosts academics, attendance, and graduation—especially for students from low-income backgrounds. americansforthearts.org+1
   - **Families:** Shared arts experiences build community ties and social connection. National Endowment for the Arts
   - **Seniors:** Participatory arts improve health, reduce loneliness, and support cognitive function. National Endowment for the Arts+1
   - **Veterans:** Creative arts therapies (NEA Creative Forces) aid recovery and quality of life in DoD/VA care. National Endowment for the Arts+1

- **Florida:** The State's Division of Arts & Culture affirms arts as essential to education and economic vitality, with AEP6 tools specific to Florida. Florida Department of State+1

Follow Up: Chapter 34 of the Code of Ordinances is not in the Charter. It is an ordinance adopted by the Council. The Charter cannot mandate a level of funding. For example, Volusia ECHO and Volusia Forever programs were approved at bond validation referenda but authorized the Council to levy up to .2 mills each. Neither referendum made the spending decision, which falls to the Council under state law.

[END J. CLAYTON]

STEPHANIE WOHLFORD

[BEGIN S. WOHLFORD]

1. **Sec. 301. Composition** and **Sec. 303.3 . County Chair**

   Discussion Point:

   Multiple citizens have suggested to me that we evaluate the merits of an elected County Chair (current situation, since 2005) versus an appointed County Chair (pre-2005).

   Key Questions:

   - Should the Chair continue to be elected by county-wide vote, or be appointed among the councilmembers?
   - If appointed, should the term be one year, as is the case with Vice Chair?
   - If appointed, should the council composition remain 5 members elected from districts, and 2 at-large members?
   - If appointed, should the election of the 2 at-large members be staggered?

2. **Sec. 302. Qualifications**

   Discussion Point:

   Assess wither the current residency requirements are sufficient for Council candidates.

   The current qualifications state that members of the Council "shall have been residents of the county for two years immediately preceding the date on which they qualify to run for office."

   And "the five members elected from districts shall have resided within the district from which they are elected for at least six months prior to the date on which they qualify to run for office."

   Key Questions:

   - Is two years sufficient residency to be qualified for office?
   - Should the qualification period be at least as long as the term of the office they seek to hold, 4 years?

Follow Up: Reasonable duration residency requirements for elected officials have been challenged on equal protection grounds; however, where those requirements have been tailored to achieve legitimate governmental interests such as (1) providing voters with necessary time to develop familiarity with candidates and (2) providing candidates with an opportunity to become familiar with constituency interests, the durational residence requirements have withstood challenge. Regardless, durational residency requirements

that do not bear a rational relationship to these interests have been struck by courts as being unconstitutional violations of the equal protection clause. Generally, the longer the durational residency requirements imposed, the more likely they are to be successfully challenged. By contrast, shorter durational residency requirements have been upheld more often.

Also, taken into consideration is the level of office. Broadly, higher offices (*e.g.*, governor) are more likely to survive a challenge to durational residency requirements than lower-level offices (*e.g.*, local representatives).

The trend in courts is to increasingly find durational residency requirements to be too restrictive considering the changing nature of society with the advent of the Internet, social media, and the concomitant increasing access to information about candidates (thereby making it easier to satisfy the historically recognized justifications for durational residency requirements with less restrictive limitations).

While durational residency requirements of up to 7 years for the office of governor have been upheld, *Chimento v. Stark*, 353 F. Supp. 1211 (U.S. Dist. NH 1973), a 5-year residency requirement for eligibility for election to office of a county executive was deemed arbitrary and thus impermissible under the Constitution's equal protection clause, *Billington v. Hayduk*, 439 F. Supp. 975 (U.S. Dist. N.Y. 1977). Even a 3-year residency requirement that candidates be required to register to vote within a particular district was stricken as unreasonable. *Henderson v. Ft. Worth Independent School District*, 526 F.2d 286 (5th Cir. 1976).

- Is six months sufficient residency in a district to be qualified for office?
- If not, what is a sufficient length of time?

Follow Up: *See* answer to question #2 above.

- Should there be a minimum percentage of the year spent in Florida to qualify for office?
  - Should a candidate with a homesteaded property in Volusia County, but who spends a substantial percentage of the year elsewhere, qualify?

Follow Up: Having homesteaded property would make a candidate subject to the requirement that he/she owns real property. Real property ownership as a prerequisite to candidacy or holding office has been deemed by courts to be "invidiously discriminatory and violative of the equal protection clause." *See Anderson v. City of Belle Glade*, 337 F. Supp. 1353 (S.D. Fla. 1971).

- If not, what is the appropriate percentage?

Follow Up: Legally, there is no bright-line percentage as to how long a person must stay in a particular area to determine his/her legal residence or domicile. Rather, the terms "residence," "residing," or equivalent terms, when used in statutes, or actions, or suits relating to taxation, right of suffrage, divorce, limitations of actions, and the like, are used in the sense of "legal residence," that is to say, the place of domicile or permanent abode, as distinguished from temporary residence. *Meisman v. Hernandez*, 353 So. 3d 669 (Fla. 2d DCA 2022).

For example, in one Florida case challenging a candidate's residency, a candidate for district school board was found by the court to have established a new home within district as his "legal residence" before and during residency qualifying period, and thus, candidate met residency requirements for school-board candidacy. This was despite the fact that the candidate had not yet moved into his new home and retained his old home outside the school district; however, the court found that the candidate had purchased the new home with the undisputed intent to make it his permanent residence, had updated his driver's license, voter's registration, and homestead exemption, was renovating a home, and spent one to five hours at home each day during qualifying period to supervise the renovation. The fact that the candidate had only slept at home once due to its inhabitability and renovation work was determined to be mere temporary absence, and any ambiguity or doubt resolved in favor of candidacy. *Id.*

Thus, jurisprudence holds that a "legal residence" or domicile (for legal purposes) is the place where a person has fixed an abode with the present intention of making it their permanent home, and a person's good-faith intention to change their legal residence, coupled with an actual removal evidence by positive, overt acts, accomplishes a change of legal residence. *Id.*

[END S. WOHLFORD]

MARK WATTS

1. Should a new Section 207 be added to the Volusia County Home Rule Charter be created to provide as follows:

   207 – Coordination of Countywide and Interconnected Infrastructure – Volusia County may, by ordinance, establish an advisory committee with representation from the County and municipalities defined therein, to aid the coordination the of information sharing, planning, permitting, construction, finance, and maintenance of countywide or interconnected public infrastructure. The specific elements of public infrastructure within the jurisdiction of any committee established under this section shall be defined by ordinance but may include any types of public infrastructure other than road infrastructure that falls within the jurisdiction of the of the Transportation Planning Organization.

[END M. WATTS]