

CHARTER REVIEW COMMISSION MEETING

Thursday, January 06, 2022

5:00 p.m.

Brevard County Government Center

2725 Judge Fran Jamieson Way, 3RD Floor
Viera, Florida 32940

A. Call to Order

Mike Haridopolos:

Why don't we start with the roll call if we could?

B. Roll Call

Melissa Brandt:

Robin Fisher (District I) - Present

Kendall Moore (District I)- Present

Marcia Newell (District I)- Absent

Mike Haridopolos (District II)- Present

Marie Rogerson (District II)- Present

Blaise Trettis (District II)- Present

Bob White (District III)-Absent

Tom Jenkins (District IV)- Absent

Cole Oliver (District IV)- Present

Sue Schmitt (District IV)- Present

Jordin Chandler (District V)- Present

Vic Luebker (District V)- Present

Dave Neuman (District IV)- Absent

Matt Nye (District III)- Present

Staff Members Present- Jim Liesenfelt, Melissa Brandt, Summer Wylie, Attorney Paul Gougelman

Melissa Brandt:-We do have a quorum.

Mike Haridopolos: All right, fantastic. Before we get started if everyone could turn off their devices, we are going to do our best to get out of here in a timely manner. We have a pretty straight forward agenda today. What I would like to do first is the approval of minutes.

C. Approval of Minutes from September 23, 2021

Mike Haridopolos: Is there any objections to the approval of minutes. All right without objection show those adopted.

D. Fiscal Analysis Direction

Mike Haridopolos: We also have today, we mentioned the last time about the necessary for a fiscal analysis for anything that is being put forth, and so we have Summer Wiley here who will kind of walk us through that process. Summer, welcome to the Commission.

Summer Wiley: Thank you, good evening everyone. For the Fiscal Analysis (inaudible) 7.4.2 recommends or requires that the CRC shall obtain an analysis of the fiscal impact of the proposed charter amendment prior to the transmittal of the proposed charter amendment to the County Commission. This section was adopted and added to the charter in 2010. As the CRC did not approve any charter amendments in 2016, this provision has never been implemented. Staff has the following options to implement the fiscal impact section for the CRC to consider today: The County currently has three contracts that maybe considered to obtain the financial analysis of any proposed charter amendments. We have an internal auditing contract with RSM. We have an external auditing contract with Terry Beckert and we have a financial advisory contract with PFM financial advisors. We have an hourly rate scheduled for both RSM and PFM financial advisors. However, for Terry Beckert our pricing is based on a lump sum analysis. RSM's rate schedule varies from \$ 200.00 per hour to \$ 270.00 per hour depending on the position assigned to the task. PFM's hourly rate schedule varies from \$ 175.00 per hour to \$200.00 per hour depending on the position assigned to the task. Today staff is seeking direction from the CRC on whether you would prefer that Purchasing Services develop competitive solicitation and advertise for the services, or if the CRC prefers that the staff reach out to one of these three firms and negotiate a stand- alone task under the current terms and conditions of the existing contracts with the County?

Mike Haridopolos: Thank you, Paul do you have a question?

Paul Gougelman: I do Mr. Chairman. Maybe you can brief us. The Charter is silent on what the fiscal analysis should contain. Maybe you could brief the board on what the fiscal analysis involves so they are aware.

Mike Haridopolos: Summer, thanks

Summer Wiley: Let me see if I have that in front of me here. (inaudible)

Jim Liesenfelt: Same thing, it is kind of silent on it. What we have when we do board agendas is we do fiscal impact on the budget agenda, so the standard assumption is that you would develop some impact, you know this amendment would cost the County \$50,000 a year. Municipalities anticipate a cost of \$ 25,000 a year. As I recall, in the Charter it just says you do a fiscal impact. And then whatever you guys want to do with it would be your decision. You just have to develop a fiscal impact to go along with any Charter amendment and that would be presented to the Board.

Summer Wiley: Long term effects range, that sort of thing.

Mike Haridopolos: With that, does anyone on the commission have any other questions for Summer or strong opinions as far as the selection process for someone who might do the analysis for us? Sue?

Sue Schmitt: I think it would be nice to see that in writing.

Mike Haridopolos: That can be done.

Jim Liesenfelt: We can submit, we can give that to everybody. And your next meeting is the 20th.

Mike Haridopolos: As of right now.

Jim Liesenfelt: Yeah, sure correct (laughter)

Mike Haridopolos: Depending on our work load. Any other questions for Summer on that? All right, thank you so much.

E. Amended Rules of Procedure:

Mike Haridopolos: Last time we went into the amended rules of procedure. I know Blaise, you put forth those procedure items. Does everyone have a copy of those new rules in front of you? Okay. And as Melissa was kind enough to send all of this out to us I believe on page four, rule sixteen is what we looked at specifically. And Blaise, I will turn it over to you. Why don't you kind of walk us through your thought process again just so everyone is reminded, it has been a little while since we took this up, and we can take one final look at it.

Blaise Trettis: The changes I believe the changes to the best of my recollection were moved, seconded and voted on and got a majority vote last meeting. Rule sixteen which changed the number of affirmative votes required – to change the policies from ten to eight.

Mike Haridopolos: Correct.

Blaise Trettis: And then on rule seventeen, there has been quite a bit of deleting of the previous language, which had to do with one member from each district having to be present for a vote on an approval or disapproval of a proposal. So that was deleted, and only the first sentence of that prior rule was left. And it was left at ten members must approve a proposal. And I think the easiest way to see it was by the email that was sent out which has the strikethrough and the addition in sixteen from ten to eight. That is the easiest way to see it I believe. My thought was that it has already been voted on

Mike Haridopolos: It has. We have not been here in a while, and I just think that by bringing it up, is everyone comfortable and understanding that change to the rules? I just want to make sure everyone's is going to...Paul do you have a question or comment?

Paul Gougelman: Yes, I have two comments. (inaudible) One is regarding the ten- vote requirement on rule seventeen which basically is historic, previous Charter Review Commissions as well as the original Charter Commission adhered to that same rule. The question came up in the procedures several times and that is if we are considering a

proposed charter amendment, and it is not ready for final approval, and nine members vote to go forward with it, is it killed? And I will tell you the past the way that they have looked at this is that it is only the final vote to transmit to the County Commission that would require ten votes. So, I don't know if that is in step with what this board intends? The other comment that I was going to make to you is that on rule eight, proxy voting. The last sentence, only those members physically present should be entitled to vote, I don't know if that was intentional to put that in or not, it certainly is legally okay for you to do that. However, that is not really what the law is right now according to rulings of the Attorney General. There are, in fact when I say the Attorney General, I mean a number of them that have served as Attorney General over the years that, they have, The Attorney General has ruled that in cases where there are an individual member has a significant circumstance that is the term that is used, about being able to attend, or being unable to attend, that if there is a significant circumstance the members of the board, in this case the physically present members of this board can vote to admit that person to attend by telephone. And the question is, what is a significant circumstance? The latest ruling is of the Attorney General's Office is that they leave that decision to those that are physically present. In past cases, they have ruled that being in the hospital, having a sickness, um something of that sort. Something that is more than just, well I didn't feel like driving out to Viera today. That could be a significant circumstance. According to the Attorney General, that would be up to you all. So, I don't know if you want to leave that in there. We have had a circumstance with Covid on the increase again. Some people become somewhat nervous about attending meetings like this, and anyway, I will leave those two points in your hands.

Mike Haridopolos: Thank you. I think that, if I could just start the conversation right now, unless we are, I think we even had this discussion about this last meeting. I felt we were all pretty comfortable where we are at. And if the circumstance calls for it as we move forward, we do have the ability with the new rule we put in that with only eight votes we can change the procedures anyway. So, if we see this Covid situation continue on as we move forward, obviously I think we should address that. But at this point unless Melissa tells us otherwise, and we are at quorum, I am sure we will be fine. And as we know, every major proposal is going to have at least three public meetings, so we are not going to be making any major votes until down the line. So, if it is okay with everyone else, I will just keep it as is, and if we see a circumstance where we might need to have some folks join in by Zoom or Teams or what have you, we can do that unless someone objects. Is that okay with everyone? Okay, thanks for that information Paul. Great work.

F. Press Release/Letter to Public:

Mike Haridopolos: All right, so the Press Release to the Public. Has everyone seen that with the Red top on it? I think there has already been some news stories coming out, as we are inviting folks to come and testify before the commission. I believe a couple of folks, at least one person signed up to testify today or make their comments known. As we know this is a once in a every six- year process. We want to make sure that everyone is aware that they have the opportunity to have their voice heard, and that all of the

meetings are going to be well noted so that people can make the accommodations to be here. So, unless there is any objection to this draft, why don't we go ahead and move forward and put that in the public prevue so they can get more involved in the meetings. Is that okay with everyone? Okay so without objection, please show that adopted.

G. Proposed Meeting Schedule:

Mike Haridopolos: As you all can see, also in your paperwork, our next proposed meeting is on the 20th of January. We do not have anything before us accept for the one item that came to our attention in the last few days that one of our commission members had put forth, and I know you have a copy of that. We can do whatever the committee deems necessary. We can meet on the 20th and start discussing this proposal in full. I am going to give Blaise the opportunity to kind of introduce it in full so people are more familiar with it once they read over it in full while we are gone, or we can cancel that meeting and move it to the 3rd of February, if you don't think that is a pressing issue. We have a multitude of meetings scheduled. It would be great if we had more of a workload, but at this point we do not, but I will take direction from the commission members if they would like to have another meeting in a couple of weeks or we push to February 3rd. It is up to you all.

Blaise Trettis: I am fine with February 3rd.

Vic Luebker: I think it is the right thing to do so it is publicly out there.

Mike Haridopolos: Yes, so everyone is okay with cancelling the January 20th meeting then? Everyone? Okay so let's cancel that meeting for the 20th of January that Thursday at 3:00 pm., and our next scheduled meeting will be the 3rd of February at 3:00 pm right here. Without objection, show that adopted.

All right, before we go to public comment, Blaise you want to, you were kind enough to kind of put forth an idea, so if you wouldn't mind kind of explaining that through,(and I will get these next-reference public comment cards) just so we have, I don't want to get into debate about it, if you have clarification questions. Just so we understand it. I just thought since you put this good work in, we at least will have a better feel for it when we take it up on the 3rd of February, so it's your floor.

Blaise Trettis: Thank you. The written comments that were submitted really are detailed and I hope they would be so that anyone who wants to study it or learn it, would be able to read it, and read the comments and study it and have all of their questions answered about what the intent is. But I will briefly describe it. It is a proposal to change two sections of the Brevard County Charter to make it I submit make it even more clear that excess taxation imposed by a super majority vote of the Board of County Commissioners lasts for only one year. It is my position that is what the voters intended to do when they voted in 2008, I think the language in the Charter makes that abundantly clear. However, the Board of County Commissioners has taken a different position and since 2019-2020 fiscal year when a law enforcement multiple service unit taxation district exceeded the Charter cap, in that one year the following fiscal year, and then the following fiscal year,

which is this fiscal year. So, this is two fiscal years after that. That excess taxation above and in excess of the Charter cap amount became the baseline amount taxation for the coming years. Which made it in perpetuity. And I submit that that is in violation of what the voters intended in 2008, but that is the position the County has taken. I think somewhat fortunately for me at least in trying to write this language, there was a lawsuit by former Clerk of Court, Scott Ellis challenging the Board's decision to make this excess taxation permanent year after year. That lawsuit was dismissed on procedural grounds. The Circuit Court in Brevard County ruled that Scott Ellis did not have legal standing to sue, so the merits were not reached or decided. But the Board of County Commissioners represented by the County Attorney did address the merits of the lawsuit in their pleadings and my language to change the Charter is directly from the County Attorney's pleadings in that lawsuit. Where the County Attorney suggested that Mr. Ellis would prevail if the County Charter were changed in two respects, and that is exactly what this proposal is, as it mirrors what the County Attorney argued what would make it perfectly clear that the excess taxation because of special need or critical need or emergency is one year and one year only.

So, it is my position that it is unfortunate that this even has to be made, because I think it was clear in 2008 what the voters intended. But, unfortunately that is where it is at and there is no question that this change, if approved will make the excess taxation if approved, only one year. Thank you.

Mike Haridopolos: Sue.

Sue Schmitt: May we discuss as to why we may be opposed to it?

Mike Haridopolos: I thought what we would do...

Sue Schmitt: Just for informational purposes for the next meeting.

Mike Haridopolos: Yeah, we got time, yeah sure go ahead, let's do that.

Sue Schmitt: It certainly has nothing to do with Blaise because I have a lot of respect for him. But the wording in here and what has been used is the increase of law enforcement MST. So that you are aware and a little history, the law enforcement MST's were created a number of years ago because of litigation. At the time, the funds were taken out of general fund, and which cities also contribute to, and at that time the cities filed litigation against the County and MST's were created because the MST uses are strictly for road patrol. And that is all they are used for in the unincorporated area. And that is why they were created. And so, when the Board of County Commissioners, which I wasn't on, but I was on when that happened. When the Board of County Commissioners increase because of the MST for law enforcement recently the- If you take that literally at what Blaise is suggesting in here, then the following year it would revert back. Now the Sheriff, and when he asked the Board for increase, they couldn't take it from the general fund because that also includes city money. And that has already been decided, legally. So, they would have no choice but to increase the MSTU because it is strictly for road patrol. He wanted to hire more deputies and also increase salaries and buy equipment for road patrol for unincorporated area. If you took this literally, and did this, at that point the

following year if the Sheriff goes out and hires those deputies or increases salaries, he is going to have to lay those deputies off in the unincorporated area or cut their salaries. And I have a real issue with that, and I would guess the Sheriff might too. The other MSTU's that you have are part of the budget when they approve it for your parks and recreation. And just looking strictly at public safety, and to me that really is what being a Commissioner is about. It is public safety for the Sheriff in the unincorporated area, for your fire, your emergency services, and then you have your parks and rec and your roads. And the County Commission is elected by the people in their districts, and that is why they vote the way they do, hopefully. I wouldn't swear to that, but hopefully they do. And to me, then to tell them the next year, well I am sorry Sheriff but now you have to cut everybody's salary or lay off deputies in the unincorporated area, I think the people in this County would go nuts. In all honesty.

Mike Haridopolos: I think that is why we will have the discussion.

Sue Schmitt: I just wanted to have that laid out on the record.

Mike Haridopolos: I got good news for you, we will have many opportunities. Mr. Nye?

Matt Nye: I just had one point of clarification. It is just now about law enforcement, it is the way this is being interpreted across the board was my understanding. That, I mean I know that was the one specific issue that brought this to a head, but just the entire concept of when, how is that calculated. So that is my concern. I understand the argument Ms. Schmitt just made, but I think these clarifications are necessary, and I think it will save us a lot of money in litigation going forward.

Mike Haridopolos: Okay, any other comments on that? Okay one more, and then let's, we got plenty of time. Of course, Blaise, go ahead.

Blaise Trettis: Just briefly you know, in 2021 the Florida legislator passed state law which prohibits a law enforcement budget from being reduced. I will throw that out there.

Mike Haridopolos: Other questions or comments? All right so one of the things, I got here earlier and talked with the staff a little bit is we already had Summer give a presentation, but I think what will be really important is this we have plenty of time to get into the issue in every one of these issues. We will have at least three public hearings, is that we vote with as much information as possible. So, one of the things that I would request is, we did this when we handled property taxes about a decade ago (indiscernible). I think whatever side you are on, you have an understanding of how it would have impacted, not going forward, no one can put it in the future, but you can look at the past. So, what I would like the County to do, as much as they can, hopefully we won't need outside groups to do this. But would be the idea that we said if this started in 2005, or 10 or 15, whatever it might be. Where would our number be now for those different departments? It is always helpful to get a perspective on that just so we understand what we are impacting. So, I would like that to be done. If that is okay with everyone. I think that would be important so that we understand good or bad, where that might go. So at least we can make use of the folks who handle financial issues like that.

And I wouldn't be surprised, given the emotions on both sides and how much of an interesting debate it was last time, when it was almost in the courts, I am sure we will have a lot of folks coming to say their peace on. And of course, if we pass it or not, or if we do pass it, it goes to the County Commissioners, and later voters. So, but I think it is always beneficial if we have as much information as possible so if you do have some folks who really want to come and testify, I think that would be helpful, obviously, I wouldn't be surprised if we have some of our Constitutional Officers come to let their peace be known as well, but this is an important issue and I am glad you brought it up early because this will give us plenty of time to discuss it on February 03. Yes, Mr. Fisher, go ahead.

Robin Fisher: Is it possible to have, I don't know if it is the County Attorney's Office, or Charter Review Attorney, but to figure out what other counties has the same provision, because I, if I remember correctly we are one of the few counties that have this Charter cap. And so, I would at least get an understanding to who else has that, and does it still make sense to have the Charter cap?

Mike Haridopolos: That is an excellent suggestion. Let's try to find out which other counties in Florida have that in place, and we can look at how that has impacted their budgets and how they handled this conundrum. Any other comments or questions?

H. Public Comment:

Mike Haridopolos: All right we have two folks that have come in to speak. Carol, you are up first. I have a unique last name so I won't pronounce yours if you don't mind (laughter). We are not going to put you on the clock, but if you could just be respectful of the time, and if we questions we will give them to you.

Carol Vyhonsky: Thank you. My name is Carol Vyhonsky. I live in Melbourne. I have been a Brevard County resident for 21 years. I am here tonight to speak on Article 5 Section 5.2 of the County Charter which deals with recalls. I am here to request that school board members be added to the language of elected county officers subject to recall under this section. Some people say that school board members cannot be recalled in Brevard County because the Charter does not allow for it. I am not an attorney so I don't know if that is accurate or not, but one could certainly argue that school board members are elected County Officers. Even though they receive their paychecks from the State, it is the voters of Brevard County who elect them to office. The same as we elect the County Commissioners, the Sheriff, the Property Appraiser, the Tax Collector and so on. The decisions made by the School Board certainly affect all of Brevard County. For example, the half cent sales tax that we all pay to the schools. Why should they have blanket immunity from recall? The same voters of Brevard County who elect the School Board Members should also be able to recall them according to the Charter just as the Charter allows for a recall of the other County elected Officers. Therefore, I am asking that you consider adding School Board Members to the language of section

5.2 as elected County Officers who may be recalled in the manner provided by general law. Thank you.

Mike Haridopolos: Thank you so much. Any questions for Carol? All right we also have Kathryn Delany is here as well. Welcome.

Kathryn Delany: Sorry, I am a little nervous (laughter). Good evening committee members, my name is Kathryn Delany. Thank you all for taking the time out of your busy schedule to serve our community. I am a Brevard resident, I grew up here, graduated from Rockledge High. I am here to request that section 5.2 of the Charter gets revised to include School Board Members. As elected officials, School Board Members should be included in the list of Constitutional Officers that are subject to recall. Thank you so much for your consideration and your time.

Mike Haridopolos: Thank you. Jim, let me ask a question of the staff. If someone does have an interest in this as a public citizen, do they literally give that information to the County staff and then they write it up for them? Or do they have to get an outside group to write up a legal document?

Jim Liesendfelt: I was thinking the same thing Mr. Chair. I will double check 2010, I believe and in 2016 they came up with their own proposals and I made a note on our form to add to the website. Just as Mr. Trettis has the agenda item. That they public can fill out an agenda item. We will give a contact. They give it to staff. So that way you can have it in your package, if you guys want. We will just add a subject in their proposals, and then you can take a look at any proposals that they public would submit. I mean that is a suggestion if you would like.

Matt Nye: I would support something like that and be willing to put that forward, but that was going to be one of my questions. Was that obviously this is going to be subject to review by council I am sure as far as that like, yea.

Paul Gougelman: If you ask for it, we will review it.

Matt Nye: I guess I need to put in the proposal first then and then we will...

Cole Oliver: Mr. Chair should we consider having at least one board member sponsor the item to be heard by the whole board, rather than everything that comes in being heard? If it doesn't have any support (conversation inaudible)

Matt Nye: I will volunteer for this one.

Mike Haridopolos. (laughter) and again I think this is one that has been very much in the public eye and so I think it is always a great idea if one of the Commissioners likes the proposal, if they can kind of take that initiative and work with our legal staff to make sure it meets all of the qualifications, so we don't get into that squabble after the fact, if we choose to support it. It is a great suggestion. Blaise?

Blaise Trettis: Mr. Chair, I would like my proposal to be published on the County's web site on the page that is dedicated to the County Charter Review Commission, so that the

public will be able to read it. I don't think it is there now, but I think it should be there, so it is available to anyone who wants to look at it.

Mike Haridopolos: I think all proposals should be on there shortly correct? Yeah

Jim Liesenfelt: In 2016 the proposals were put on the website on the same page that has all of your contact information, so that we will get on there.

Mike Haridopolos: Absolutely that is a great suggestion. All right, any other comments? Mr. Fisher?

Robin Fisher: I don't understand, and I don't know if we should ask them or one of them to research it for us but I would like to have a better understanding of how term limits came into play. And if there was a proposal to eliminate term limits or make them a longer period of time. Is that proper to ask our attorney or staff to look at that?

Mike Haridopolos: I think it would be more than accurate. In the legislature we would always have a full proposal for how something became a law. So, I am sure it wouldn't be difficult for us to find out how that proposal started and so forth, and we will get that for you. I think if we could send that information out to the commission members before our next meeting I think it would be very helpful. And if there is any other issues, you want the staff to research, I think that is why they are here. They want to make sure they are supporting us and can have constructive meetings. And I think the other one we kind of got into, I know Paul brought it up to me before the meeting. We need to be very, very sensitive to this Sunshine Law and so what I have done is that I have received a few different emails from folks. I immediately send it over to Melissa so it can be shared with the entire commission. So, there is not side conversations going on and everyone is well aware of it. Just use an abundance of caution. Clearly, we are going to have every proposal to go through so many times, and here that is a great thing. But let's not leave any wiggle room on things if we can, um do the things correctly. So, if you do receive an email, send it over to Melissa. She will pop it out to everyone so that everyone is well aware the issues that might be discussed in the meeting, which will just make it that much more productive. Great proposal, thanks Robin.

I. Adjournment:

Mike Haridopolos: All right without any further questions, thank you. End of meeting.

5:35 pm.