

# CHARTER REVIEW COMMISSION MEETING

Thursday, March 24, 2022

1:00 p.m.

Brevard County Government Center

2725 Judge Fran Jamieson Way, 1st Floor  
Viera, Florida 32940

## A. Call to Order

Mike Haridopolos: If the clerk would please call the roll

## B. Pledge of Allegiance

Mike Haridopolos:

Start with the Pledge of Allegiance. Bob White lead us in the Pledge of Allegiance. Please rise.

I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one Nation, under God indivisible with Liberty and Justice for all.

Mike Haridopolos: Thank you if you would call the roll:

## C. Roll Call:

Melissa Brandt:

Robin Fisher (District I) - Present  
Kendall Moore (District I)- Present  
Marcia Newell (District I)- Present  
Mike Haridopolos (District II)- Present  
Marie Rogerson (District II)- Present  
Blaise Trettis (District II)- Present  
Bob White (District III)- Present  
Matt Nye(District III)-Absent  
Gabriel Jenkins-Kierstein (District III)-Present  
Tom Jenkins (District IV)- Present  
Cole Oliver (District IV)- Present  
Sue Schmitt (District IV)-Present  
Jordin Chandler (District V)- Present  
Vic Luebker (District V)- Present  
Dave Neuman (District V)- Present

Staff Members Present- Melissa Brandt, Jim Liesenfelt, Assistant County Manager,  
Attorney Paul Gougelman

Melissa Brandt: -We have a quorum.

Mike Haridopolos: Fantastic, thank you very much.

#### **D. Approval of Minutes from February 17, 2022 Meeting**

Mike Haridopolos: Also, at this time, if you have your cell phone with you, please turn it on silent that would be much appreciated. And with that, we have the minutes before us. Does anyone object to approving those minutes? Motion to approve made by (inaudible), seconded by Mr. Jenkins. So, move those minutes are adopted. We also have reports, and we have a person first talking about the CRC with County Commission salaries, budgets, and populations. If you want to go ahead and get started on that.

#### **E. Reports:**

1. Chairman
2. CRC Staff Person and CRC Attorney
  - a. Memo-County Commission salaries, budgets, and populations

Jim Liesenfelt: Thank you Mr. Chair. So, we have updated the agenda to match what is in the Rules of Procedure, so the Commission asked us at the last meeting for the difference of all the County Commissioner's salaries throughout the state, comparing charter versus non-charter, the budget of each of the counties and then the population. So, in your package there is a memo and then on the back up, you have the sheets there. I will highlight, or let you know if the highlights the charter counties that do not follow state statute for setting salaries, they are in the blue and that data we obtained by actually calling the counties and confirming. So that is your information in there. I apologize, you also asked the last time the County Commissioners received a raise under the Charter. We could not find at this point where they have received a raise. We recall they did vote for a raise and then shortly rescinded it. But that would have been a number of years ago, but they are at the same salary as when the Charter began.

Mike Haridopolos: All right are there any questions?

Sue Schmitt: Mr. Chairman?

Mike Haridopolos: Ms. Schmitt.

Sue Schmitt: I was the one who had asked for that information and I really want to say thank you to the staff because I guess that I figured that the Florida Association of County Commissioners would just have that right at their fingertips, and that was not the case. They spent a lot of time gathering the information and I want to thank them very much. And it was 1994 since the County Commissioners have had any increase. I will be bringing something back to this board, maybe the next meeting.

Mike Haridopolos: Okay, thank you very much.

Jim Liesenfelt: Excuse me Mr. Chair, we also have one more report.

Mike Haridopolos: Report B

Jim Liesenfelt: Yes, thank you very much, the three- person review panel selection, we put it out for procurement and we, the selection committee met last week. They recommended awarding to the three firms which is: Nabors, Giblin and Nickerson, Grey Robinson and Civforge Law. The protest period concludes on Friday at 5:00 pm and then after that we will begin negotiations with them, and those will be your three-panel attorney's. One from each of the firms.

Mike Haridopolos: Thank you so much. Are there any questions?

Bob White: How much did we pay the last panel?

Mike Haridopolos: Did you hear that question? How much was the last panel?

Jim Liesenfelt: I apologize, I should have that in front of me, I will get you the information.

Mike Haridopolos: Other questions on those two items? All right with that said, we are going to move to our proposals, we have hearing number two on the Charter Cap.

Blaise Trettis: Mr. Chair there is reports on the agenda, # 2 under Commission Attorney. As you are going in order- E-2. CRC Attorney.

Mike Haridopolos: Okay, do you want to go ahead?

b. Memo-Recall School Board Members-

Paul Gougelman: Yes, I will be brief. The opinion is lengthy, and I will be happy to answer any questions on it. I will tell you, just to update a little bit. One of the questions we could not come to a complete answer on, and that is: In the event of a recall election, who pays for the recall? Well the statute is very clear that the petitioners that are seeking the recall pay for the petition review, but then when it is actually placed on the ballot the statute is silent in that regard. I did contact the Supervisor of Elections, she in turn contacted the County Attorney's office. The County Attorney's office has reported back as of a couple of days ago that they could not find anything in the statutes that talked about who has the responsibility for paying for that. My guess relying on four years of local government experience is that more likely than not, the jurisdiction that has the person being recalled is probably going to end of paying for that. What authority do I have for that? Nothing. I have no authority for that, but I would suspect that is how it would be handled. The Supervisor of Elections, by the way did not know the answer to it because since she has served as our Supervisor of Elections, we have had no recall elections in Brevard County. I think which probably says something for the stability of our government.

Another point, Mr. Moore had asked for an opinion on whether or not the CRC recommendations can be changed by the County Commission, once the proposals have been passed on. That is still under review at this point and an opinion will be forthcoming. I will be happy to answer any questions.

Mike Haridopolos: Thank you Mr. Gougelman. Other questions? Mr. White for a question.

Bob White: Yes, I am just wondering when you say the jurisdiction does that mean if it were a school board recall, that the school board would pay for it?

Paul Gougelman: I would think.

Bob White: Okay.

Mike Haridopolos: Mr. Trettis for a question.

Blaise Trettis: Well I will get to a question. Are you in your entire memorandum now? In the memorandum Attorney Mr. Gougelman makes the opinion it's a close call on the recall of school board members but he is of the opinion it is not consistent with the general law. I wanted to point out a couple of things about Attorney Gougelman's opinion. First of all, thankfully he does cite some charter provisions in other counties about recalling other constitutional officers. And those counties do provide for the recall of constitutional officers such as sheriff, appraisers, tax collector. What is not included in the memo is there is two counties that specifically provide in the charter for the recall of school board members and that is in the city of Jacksonville, that's the same as Duvall County, and their charter at 15.01, it says: "any officer elected in any government or school board election may be removed from office in the following manner". So that Charter specifically applies for the recall of school board members. And then in Sarasota County, in section 6.3 recall. The procedures for the recall procedure is set forth in general law, the procedures set forth for the recall of other elected officers, including but not limited to the sheriff, supervisor of elections, property appraiser, and clerk of the circuit court is the same as those of recall of County Commissioner". That "is not limited to" would also include school board member. I wanted to point out that in other county charters, the recall of school board members is specifically provided for. I also wanted to point out that the Attorney Gougelman makes a lot to do with a 1971 Attorney General Opinion. That has some really broad language about county charter not having really much authority in the matter of school board operations. But if you look at that decision with the Attorney General opined on was really internal administration of the school board such as the charter provide for the purchasing of materials, supplies and equipment of operation of school system in a department of central purchasing established under the county charter can people be hired through the county wide hiring system. Those are the specific questions asked and I don't agree with the general language in there that it applies to the recall of school board members. And also, that was in 1971, but in 1973, the legislature passed the Municipal Home Rule Power Act which dictates the local government should be allowed to act if not clearly directed to by statute. And the third thing I wanted to point out is that Attorney Gougelman points to a provision in 100.361. which says that in support of the position of recall needs to be statewide and the charter in his opinion should not be amended as it would not be consistent with state law to do that. But that section reads quote, " It is the intent of the legislature that the recall procedure provided in this Act shall be uniform statewide. Therefore, all municipal charters and special law provisions which are contrary to this Act are hereby repealed to the extent of this conflict. This was in the recall of county commission and city council member law which passed in 74. What the

attorney Gougelman relied on, this passage I just read has to be there because it repeals anything that proceeded it regarding recall elections and county commissioners and city commissioners. That is what it talks about in uniformity and repeal. So, I wanted to point these things out, I think there is plenty of time for me to file a written memorandum that further explains this in writing but I just wanted to say those things today at today's meeting. Thank you.

Sue Schmitt: I wonder where our Chairman has gone?

Kendall Moore: Mr. Trettis, the Chairman did have to step out, so I will take the gavel here for a few minutes until he returns. Ms. Schmitt.

Sue Schmitt: Were you finished Blaise?

Blaise Trettis: Yes

Sue Schmitt: Okay, I want to thank Paul. For those of you that have not seen it, Paul Gougelman is the attorney for this board and he did a nineteen page (I counted them Paul), (laughter), memo to this board and going through, in particular the school board issue that he stated: "State law, Attorney General and the Courts as to why this item, as far as single member districts, and also as far as the recall is not correct. And that in fact, the only thing that the County Commission, I did mention this, and asked the question when we were here the last month, as to why this was even in the County Commission Charter because the County Commission has nothing to do with the School Board. The only thing they do is collect impact fees for them which they are permitted to do. Then I did have a very brief discussion, as to why is this even part of the County Commission Charter, of one elected body telling another elected body what to do. And under Florida law, and I think he was very specific in what he laid out as far as Attorney General, State law, and the court cases that have taken place, as to why really this section, Section 8 should not even be part of the County Charter. That the way that you would have to go and get what you are looking for, if you are on one side, would be to go to the State legislative delegation, in fact this last meeting, or group of the legislature- Representative Fine did take a piece of legislation on single member districts. I know he is a smart man, and I know at that point he had to know that the single member district that is already in the Charter was not legal or correct, or he would not have taken that in, but it did not pass the legislature at this year. So, to me, if you want something like that to occur, whether it be the school board or some other group, is to go to the state delegation in Brevard County and then ask one of them or all of them to take your issue in. I think you may have a lot of people supporting you at that point, but to me I am basing my information on what Mr. Gougelman wrote. And anyone that wants a copy of the nineteen pages, it is public information so. Thank you.

Blaise Trettis: Mr. Chair

Kendall Moore: Mr. Chairman, we are still on item E-2 b. for comments. Mr. Trettis.

Blaise Trettis: Thank you. Mr. Gougelman you know when you put in your memorandum, I think you said the same terminology for both recall of county constitutional officers like tax collector, property appraiser, sheriff. You said it was a close call, but in your opinion that

would be inconsistent with state law. And then also you said that for the recall of school board members, then again you said it was a close call, but in your opinion that it was not consistent with state law. I just want to ask you about your terminology of close call. Could that mean that a court may decide that it is consistent with state law or inconsistent with state law in your opinion that either of those things could happen if it were litigated in court?

Paul Gougelman: Yes

Blaise Trettis: Thank you.

Vick Luebker: Mr. Chair.

Mike Haridopolos: Sure

Vic Luebker: Quick question. This goes back to the same thing Blaise brought up a minute ago. That is what I have circled here as well. One word that I have circled. Item 11 in section a. "The intent of the legislature was that the recall procedures", that is what I have circled, procedures "provided in this act shall be unified statewide". I read that as the process of recall, not the office holder or the office itself, am I wrong?

Paul Gougelman: I think certainly the court could interpret it that way. Yeah, as I say in the memo, I think this is a close call. Unfortunately, in the law as we all know there are not many things that are black and white. A lot of them are grey, and it cause all of us a great amount of consternation. I think this is one of the areas, the issues that fits right in the grey. It is very grey, and as the gentleman Mr. Trettis points out if this were in court, could a circuit court or an appellate court determine to the contrary? Absolutely. Now should they? Of course, not because it is my opinion. (laughter) But I think he is absolutely correct that they certainly could.

Vick Luebker: So, it is fair to say that the word procedures could be the process, not the office itself?

Paul Gougelman: It could be interpreted to be process, you are right.

Vick Luebker: Thank you, I appreciate it.

Mike Haridopolos: Mr. White for a question.

Bob White: Well what a surprise that two attorneys have come up with a different conclusion.(laughter) So with regards to whether or not one opinion is right and one opinion is wrong, it seems to me that is one of the reasons we are here. Is to try to weigh these arguments out and to come up with a solution. And I rather doubt that every opinion on this board is going to be the same. I don't know what the whole end point of this is going to end up being, but certainly it is not to try to decide today whether or not we even continue with this, with this discussion. Am I correct?

Mike Haridopolos: That is correct

Bob White: Okay, so I think we plow on.

Mike Haridopolos: Any other questions on E- number 3? One thing I would ask the staff to do then, because we don't know for sure who would actually be paying for the election. I think it would be interesting to ask the Supervisor of Elections what a special election does cost? Or at least give us their latest figure on that number. As we know there is off year elections in cities, that maybe would give us an approximate number so at least people can go eyes wide open with what a special election might be versus if they chose to have a recall election during the next general election or primary, whatever it might be. I think that might be helpful just for more information sake.

Cole Oliver: Mr. Chair, to add to that I think it may also play into the later discussion we have on a proposed charter amendment as to whether it is a single district member or county wide election because that greatly increases the cost of an election to do a county wide election versus the single district.

Mike Haridopolos: I couldn't agree more. I think just that general cost for an election, special election is important county wide or by an individual district is a very good question, so we will get that information for us. We are only on reading two today. I think one of the things I would still like to discuss as a group is do we have a voter-ama on all the bills, or all the proposals in one day at the end, or once it reaches number three or third hearing we schedule a vote for the next meeting. I think that is something we should discuss as we go along because the number of proposals are increasing, uh by the hour.(laughter) Blaise if we give it another hour, you might give us a couple more so let me know. (laughter) So with that in mind, I think it's just we want to make sure, before we get into actual proposals, anything on process that people want to get into today? I know later today we are going to have a vote on moving from ten to eight or not, and I think also a provision was added about the all five districts voting for a particular proposal, I think that is coming later. Anything else with process before we get into the public comments on the different agenda items starting with F.

Blaise Trettis: Mr. Chair

Mike Haridopolos: Yes

Blaise Trettis: I happen to overhear Mr. White say that he had to leave today at 2:30, so after hearing that I ask the Chair's permission to do the vote from ten to eight in rule Seventeen before 2:30?

Mike Haridopolos: I think there is going to be some extensive debate on that. That is the only issue. We will do our best to get there. I don't think there will be doubt about that, but I will open that up to the committee. Would you all like to move to that agenda item now, or proceed to it in due course. Anyone have a preference? I know yours, Bobs of course.

Robin Fisher: Due Course

Mike Haridopolos: Great, all those that would like to see that later in the agenda say aye-yes (no response) all those that want to go right to that item now say yes. **Yes -vote carries to go to the item G-4 on the agenda now.** Okay, we will go to that item now. This is in unfinished business. It is section G and it's on the motion to change from ten to eight. Why don't we open up? Blaise this is your item. Why don't you go ahead and kind

of promote your idea, and then you can answer questions from it, and then we will allow debate for it.

#### **G-4 from Unfinished Business**

Blaise Trettis: I believe that I do not have to restate the motion because it was made at the last meeting, and it was tabled, so that is my understanding of procedure of how that would work. But the motion was made, and the motion is to change from ten commissioners to eight. The number that would be needed to pass a proposal to amend the Charter Review Commission in rule seventeen. And the reason I have made this motion is because I had a chance to look at some of the other Charters of the State, and I found that at least four counties, and there is nineteen Charter counties. At least four of them I should say only four of them because there is nineteen Charter counties, only four of them require more than a majority vote to pass a proposal. That would be Ocseola County with two thirds, Hillsborough County with two thirds, Wakulla, ten or more, Broward two thirds. So, the majority of Charters do not require a supermajority for a proposal to pass. I am of the opinion that Brevard County Charter should also not require a supermajority, and I think that there is also an argument to be made that it has to be eight and can't be ten no matter what because the Charter as it exists now does not contain a supermajority vote so silence is a majority. You look at all these counties that don't have a supermajority, there Charters are silent. It is just if it is voted in, so if you, and the other thing is this is not a procedural matter Even though this ten-vote requirement is in the Commission's Rule of Procedure, it is not a procedural matter. There's nothing more substantive than the vote requirement that a Charter amendment must have to pass. It is really the essence, the core function, fundamental function of what this committee even exists to do, which is decide whether or not to pass proposals to go to the voters. So, it is silent now, and I submit that silence means its majority and if it is going to be anything more than a majority then it needs to be in the Charter just like it is in Hillsborough, Osceola, Wakulla and Broward's Charter. But it not being in the Charter it is eight. Which leads to the scenario that if let's say that on the Charter Cap Amendment if eight people voted it's approval, eight or nine, then the Chair would be in a big decision to make there is nothing in the Charter that says it requires ten votes. So, do I send it to the Board of County Commissioners saying that it has passed and to take-action on it pursuant to the Charter. Or does the Chair say well what do I do now because there is these rules of procedure which say it takes ten and it got eight or nine. It is a bad predicament to be in for the Chair. But then you follow it up with the Chair decides no I am not going to send it to the County Commission because the rule of procedure says it takes ten votes. Then a Commissioner makes a motion for the Chair to forward the proposal to the Board of County Commissioners as passed, and that motion gets eight or nine votes let's say. Now you have a motion for the Chair to do that. So, it is a real quagmire that is avoidable by changing the Rules of Procedure to from eight to ten. Then I submit if that is not done, it is still eight because the Charter doesn't say it is a supermajority. The Rules of Procedure isn't procedural, it is substantive. So, for those reasons that is why I make this motion and that is all I have to argue.



Mike Haridopolos: Thank you, while we are on this subject as well, you have new business where you want to also remove at least one member appointed by each Commissioner. So, you want to further erode that number from ten....

Blaise Trettis: No, that is on a different rule. That is in rule sixteen where right now it says eight members, but at least one member has to be present from each commission district. So that is a different proposal which I have not made a motion for.

Mike Haridopolos: Okay, I just want to make sure you are on the same page. Okay, all right so I think what is being proposed, just so we are all clear is that Mr. Trettis is saying that in general if nothing is done, it could be as simple as eight people voting in the affirmative to send it off to the County Commission. Under our rules currently we have it as ten. I think what it pretty much calls for then is: Is it the will of the Committee to stay at eight, have a vote up or down, or is it the will of the committee to stay at ten? So, I think that is really the debate that is on hand here because what is being implied is that it is eight regardless of the vote. And I think we had kind of adopted earlier in our meetings at ten, at least accepted that ruling at ten. I think what I will do is just open this discussion up, see where it goes. I don't, also Mr. Moore talked about the idea of leaving it at least nine because that is that sixty percent threshold which is used for the Florida Constitution. So, I am open again to what the commission, or committee would like to do, and then we can have an up or down vote when we get there. Mr. Jenkins.

Tom Jenkins: I would just like to comment how the County Charter is very similar on a local level to the United States Constitution, and the State of Florida Constitution. And I think that anytime you propose changes to that, they certainly need to be aware that it is well thought at, and the other point that I wanted to make is supermajority votes are very common on matters of extreme importance, and to me the County Charter is a matter of extreme importance, and I do think there is a case to be made for a supermajority vote.

Bob White: Mr. Chairman?

Mike Haridopolos: Mr. White.

Bob White: I think it is clear that we are not the ultimate decision makers on these proposals, that ultimate decision maker is going to be the people of Brevard County that chose to vote on whether or not an amendment needs to be passed, and so I think that anything that we do that erodes the ability of the people to weigh in on these decisions is contrary to the whole idea behind what the Charter County is supposed to be. So, I agree with Mr. Trettis that to require a supermajority on this body, will do nothing but prevent the voters to have that opportunity to speak their peace on the proposal, so they either get to vote on a proposal, or they don't, based on a majority or a supermajority on this board, so it just seems to me that a supermajority prevents the voters of Brevard County from having the opportunity to make their opinions known. I think that is the ultimate choice that we have as a body is, what are we passing on to the voters, and how many votes should it take? I am in favor of a simple majority.

Mike Haridopolos: Other comments, Mr. Moore

Kendall Moore: I will defer to Mr. Trettis first, I think Mr. Trettis

Mike Haridopolos: Mr. Trettis

Blaise Trettis: Thank you. I was on this committee recently, it was a district court of appeal workload committee and when it came down to the very end for a vote for the matters that needed to be voted on, the Chair announced that he wasn't going to vote, that he was a neutral person and surprised everyone. At the very end he said he wasn't going to vote. I was just curious Mr. Chair Haridopolos, are you going to vote, because it makes a difference on whether it is fourteen or fifteen people who will be voting?

Mike Haridopolos: I consider myself an equal member of the group, so, I am not going to abstain on everything.

Blaise Trettis: Okay, thank you.

Mike Haridopolos: Mr. Moore.

Kendall Moore: Mr. Chairman I was going to joke with our Public Defender it became clear after the first comment why he wanted to change the agenda and have it done now, he has a good supporter in Mr. White. But if you would allow, Mr. Chairman, I do have a couple of comments for the Attorney, or questions I guess for the attorney.

Mike Haridopolos: Whatever time we need to take to make sure this is right.

Kendal Moore: Paul, Blaise raised the question as to whether or not a ten- vote requirement in our procedure was in some way a violation of the Charter because it was stated there versus the Charter. Any thoughts or ideas relative to this committee's ability to establish a majority, or threshold that would be above the fifty percent plus one?

Paul Gougelman: Mr. Chairman I have not had a chance to research this issue, so my comments are kind of extemporaneous. I think the question is, a good question is where did the ten-vote requirement come from? And the answer to that is that it goes back to the original Charter Commission. The members of that Charter Commission, in adopting their rules decided that they wanted to go with the ten, they had a fifteen- member commission just like this one. They decided they wanted to go with the ten- vote rule. Their reasoning at the time was they felt that if something couldn't garner ten of the fifteen votes, then its chances of moving forward in the process with the voters was probably not a, not a good chance. The, as I recall, and I am thinking back thirty years now, the rules were reviewed and actually drafted by the Charter Commission attorney, and those were adopted. So, at the time, the attorney who was Allen Watts, by the way who is deceased. Mr. Watts finding was that this was appropriate for the rules of consideration and for the rules of procedure. Other than that, I can't give you a lot on this, because I have not researched this issue.

Kendall Moore: Mr. Chairman, I would tend to agree, and I would say to what was referenced earlier about the multiple legal opinions. There are some pretty brilliant lawyers on this committee, but there is one that we pay to represent us. I don't think that any of us that sit up here, it is not our professional liability insurance that is on the line of giving legal opinions here. So, I think many opinions on this may vary, but I think I will agree with Sue's earlier comment about listening to the council that we have paid to help

us. But in relation to this issue, all due respect to Mr. Trettis. I stated it on the record previously. I have served here previously as well. I do believe that it is not historically unique that higher percentages are required for changes to things like constitutions. I think Tom brought it up in his earlier comment. Our former Senate President referenced it, in terms of the State Constitution and sixty percent, and I think there has been much discussion around the State, and other states. I mean even at the time when there was such highlights as how do pregnant pigs end up in constitutions? It is because it was made extremely easy, or easier for constitutions to be changed. We are not changing the code, we are looking at what is the functional equivalent of this County's Constitution. So, on that one basis I do not think there is a problem with an enhanced threshold. Number two I said at the last meeting relative to, yes there are fifteen members, but these fifteen members are appointed by County Commissioners. So, each of the five County Commissioners appoints three people. I think that one that appointed me sits in this audience today. So, we are here having been appointed by members of this County Commission, and I think the functional equivalent to three County Commissioners, which would be a majority in that context, would equal nine of us. And so that is at least the nine, and as Paul referenced when this ten-vote rule was ultimately created, they went with the nine plus one as an enhanced standard to say: Hey look, we are not just going to go with a simple majority to make it out of this posture that we would ultimately need the ten versus that. And then last but not least, Mr. Trettis, it is my fault not yours, had I known that both this proposal and the one that you referenced to come relative to not requiring a member being present from each commission district, if I had known that changing the number of votes needing to change the rules was going to be used for this purpose to ultimately water down how the process would work, I would have lodged my dissent at that point. And, so that is not your failure, that is mine. I wish I had spoken up at that time, but I certainly am opposed to reducing the number to eight versus ten. Thank you, Mr. Chairman.

Mike Haridopolos: Mr. Fisher.

Bob White: Just a question for my fellow commissioner down there, are you suggesting then that the County Commission then that established the ten- rule versus the eight or even the nine rule didn't trust the voters of Brevard County to be able to make a decision on something as important as their own Charter?

Kendal Moore: Not at all Mr. White. I don't think we are talking about the voters decision, we are talking about what this body sends forward to the voters. So, let me give you the two rationales: One, I stated why I think changing the Charter, like changing any Constitution heightened thresholds would work. But the second part, and I know Mr. Chairman you said, and Mr. Trettis said that it's a separate item, but let me include the second part of that which was ensuring that at least one member representing that County commission district is present. As much as we love Brevard, we are one whole, things in Mims and Micco are different. Things barrier island, beachside and main land are different. And to the degree that three members of this board represent a County Commissioner that is defined by a specific geographical district, I believe that second rule does ensure the fact that all geographic areas of the County are at least heard on anything and everything that would go forward to the voters. So, I don't think that takes anything away from the

voters, and in fact, this ten-vote requirement, I think has existed, I think Mr. Gougelman would know far better than I would, but at least the last two times I was here, the board, this committee functioned on that ten-vote minimum. So, I don't think that that in anyway reduces, you know what I mean, the voices of the people. If it reduced the voice of the people, you could wipe out this, make it one vote and say let's just send everything forward for that particular purpose. I think that clearly the people still have plenty of opportunity to speak, but an enhanced threshold for this committee is not inappropriate.

Bob White: But you certainly do agree though,

Mike Haridopolos: Mr. White, could we...we will get into debate later. Let's just let folks get their opinion out, then we will go back and forth for questions. Mr. Fisher.

Robin Fisher: I will ask Mr. Gougelman, how did the first original committee members get to the ten-vote rule? And there are so many things in our County that take supermajority vote and usually it is stuff that has major impact on the community. Far as I know from a voters standpoint, most of the voters will not see this item until the day it is on the agenda. They have not vetted the issue, they have not spent as much time talking about it as we have. And so, they are going to depend on this board to be putting something forward that really is in the best interest of the County. I think if you are not able to get ten out of fifteen members on this board to move something forward, then more than likely it is not going to be in the best interest of the County, and I think most voters are going to depend on us bringing something forward that could make sense.

Mike Haridopolos: Others in the discussion. Mr. Trettis.

Blaise Trettis: Okay, if that was the intent of the original rule that the original Charter members thought that if a proposal couldn't get ten votes, then it wasn't likely to get anywhere with the voters then I think that is a really faulty logic because I am very confident that if my Charter Cap proposal got one vote of this commission, and went to the public, it would get the same seventy three percent or higher percentage that it got in 2008. So, that is the first thing I would like to point out. The second thing is that it seems like some commissioners think that the existing Charter should be given some type of reverence, and it should be a very high hurdle to change it. Well we have heard from our attorney that Article Eight on single district school board member elections is contrary to law, and we haven't discussed that much, but I think it is going to be a lot more than a close call when it comes to that opinion. So, what I am saying is that this Charter is, it wasn't written by Thomas Jefferson. It should be changed when it needs to be changed, and I think there are things that definitely need to be changed. I don't give it the same reverence of a supermajority vote to change like others do. And then the finally to Mr. Moore's point about three commission districts. I personally just don't agree with that whole philosophy that we need representation for votes from each district. As a matter of fact, this Commission voted to change the procedural rules, I think our second meeting, to eliminate those residence requirements in the procedural rules, so we have already made that decision. But assuming it is somehow important that eight votes would be from three districts: three votes, three votes, two votes. That is eight. You have your three residential districts in that manner. Two out of three is a supermajority, so any way you slice it, eight is the number that I submit should be all that is required to pass. Thank you.

Mike Haridopolos: Others who haven't been heard yet. Ms. Rogerson.

Marie Rogerson: So, this particular proposal is one that has kind of troubled me. And so, I did some research about how people do change the Florida Constitution, and how we change our National Constitution and all these things. And my resulting, it is my opinion is that there is no set bar. We are comparing apples and oranges most of the time. Especially here when we talk about a supermajority required to change our Charter. Right now, that is not required of the voters. We are not elected people. They pass it by a simple majority. To me, if they can pass it by a simple majority, it makes sense that the standard for this process should be the same for them and for us, to me. The County Commissioners have a higher bar to change something, and if a voter does it by petition to change the Charter it's actually a much lower bar, it is five percent. So, there is no standard bar at the moment for changing our Charter in the County. I don't think there is a right or wrong thing. It is just a personal preference. To me, I like it when things are the same. The same bar for people to vote on it that it is here since we are not an elected body. So, that is just my personal opinion.

Mike Haridopolos: All right, others that have not been heard yet. Mr. Oliver.

Cole Oliver: You know, I would echo Mr. Jenkins comments that I view our Charter as our version of the Constitution, and I believe that two-thirds is a proper level just as it is in the Constitution for the legislature to change, so that is where I stand,

Mike Haridopolos: Others in comment or debate. Ms. Schmitt.

Sue Schmitt: I guess I am kind of giving away my old age here. But I happened to be on the board in 1994 when it went to the voters. And which means, that the County Commission at that time sent that wording to the voters in Brevard County. The voters chose to pass it and become a Charter County. I believe it was done for a reason. And each board since that time, and there has been a lot, trust me I am up on that wall like ten times or something (laughter) It really, people could depend on it. Because they voted for it, and to me that makes a difference.

Mike Haridopolos: Mr. Fisher, I know that you had something.

Robin Fisher: Paul, one question for you. Did you say that you are not positive yet that if a decision is made here and it gets to the County Commission, can they reverse it, or support it or?

Paul Gougelman: We still have got that issue under research and we will be coming forward with an opinion on that soon.

Robin Fisher: Mr. Chair, I think it would be, for me I wouldn't be very comfortable voting on any changes until that question has been asked.

Mike Haridopolos: That is taken under advisement and we will come up, we have a motion on the table as you know we can table that, or not, but I think other people have opinions. Mr. Neuman.

Dave Neuman: I think I made part of my opinion known last time, but something that I had thought about during this whole discussion as well is kind of the utilitarian use of what you can do with, instead of a ten- person majority, eight. I believe, Ms. Schmitt had pointed out very accurately why was the School Board in the County Charter when the State has it. And because of that, you have these questions as to how certain things got in there, well I believe at that time it was under Brevard review, but now I think we have the opportunity to clean certain things like that up by using this process. And usually using a ten- person board, you know you wouldn't be able to get that down on to the people in order to vote that or to clean up some proposals. On top of that I have also had the privilege of talking to tens of thousands of the voters here in Brevard and they are always wanting to be involved in the process. They are always wanting to be involved and have an opinion and be heard and go out there and vote for certain things. I generally trust everyone on this council, I don't think that we are going to pass something absolutely ridiculous or crazy, but I do think we would be able to send something down there even with a simple majority that makes sense, that is rational, that is something that at least should be considered by the voters because if a simple majority of this council says oh hey we are going to go down and say do you guys have an opinion on this, I think they would appreciate that opportunity on this instead of saying it was short by one vote, it only got nine instead of ten. Now the voters do not get to have an opinion on that, they have to wait six years, or Ms. Rogerson put together how the petition process would work, which I have gone through a petition process, very difficult for a voter to actually get something, whether it is involving the School Board, whether it is involving the ability to speak, things of that nature in front of the voters through referendum process. So, from a utility prospective, I think it could help us, change some things, get more voters opportunity to see things, and again I trust the people on this board so I think a simple majority is A-Okay.

Mike Haridopolos: Mr. White.

Bob White: I may be shooting myself in the foot here, by even asking this question, but Commissioner Schmitt down there: When the county Commission voted to send the idea of a Charter to the voters, was a supermajority required? Were the four votes required of the five- member board to make that happen or was it just a simple majority decision?

Sue Schmitt: On the County Commission?

Bob White: Yea, you said that the County Commission voted to send it.

Sue Schmitt: It was a simple majority by the County Commission to place that on the ballot.

Bob White: Did you say simple or super?

Sue Schmitt: Simple.

Bob White: So, three out of five?

Sue Schmitt: Now the Commissioners themselves were not simple(laughter). Okay because I was

Bob White: That is not what I was implying.

Sue Schmitt: I mean we have to have a little levity Bob.

Bob White: I know, I am smiling.

Sue Schmitt: But

Bob White: But it did not require a supermajority of the County Commission to send the idea of a Charter to the voters

Sue Schmitt: Not at that time, because you did not have the Charter yet.

Bob White: Okay, I was just asking. So, three out of five could do it.

Mike Haridopolos: Other comments on the issue. All right, let me just add a couple of things. One is as was mentioned by Mr. Moore. I have lived through this on both sides of the issue. When I was first elected to the legislature they passed the train initiative. This was the idea that you would have to build a train constitutionally etc., and because of this and the pregnant pig issue, we in the legislature decided to have a higher threshold to place something before the voters in the Florida Constitution. The same thing held true of course, this would be the equivalent of course on the local level of having the supermajority. I think the other thing that a lot of people have talked about, not on the legislature, but representing bodies is having a higher threshold when you want to raise taxes. Where everyone is for having that higher threshold when you want to raise taxes. One of the things I am always concerned about when you mess with the United States Constitution or the Florida Constitution or even a local Charter is the unintended consequences. And I know that there are a few proposals that are coming here that would be very expensive if they should pass. And I think that is one of the things, a higher threshold is always of importance. And so almost be careful what you ask for. I think the other part of it is we are having this discussion, actually as we speak, in the United States Supreme Court hearings right now talking about are you a strict constructionist or are you not? And so, what we are talking about here is when we lower the threshold, that you are making it easier to change a fundamental document, so I want us to kind of be wary of that, or on the other side, you are optimistic about it. So, it is something to do. I think based on Mr. Fisher's question, which I think is a fair one. The last thing I want to do is change the rules of procedure and then find out later that the County Commission is going to sink it based on the fact we didn't have a supermajority or whatever it might be. Considering we have no votes today, of consequence, meaning we are not voting today to send it off to the County Commission, I would think that the logical thing to do would be to table this motion because we are not voting. And I want to, as I said in day one, and I think we all agreed with it, we want people to have a very informed decision when it comes to their ultimate decision. And so, we should do the same in this process, so if it is okay with the committee, I would like to entertain Mr. Fisher's motion that we table this issue until we find out more clarity from the legal side because I don't want to send whatever we send, if it is just an eight person majority in the end, and get them all nuked, and we all wasted half of our summer. So, do I have a second on that?

Cole Oliver: I will second that.

Mike Haridopolos: Okay, Mr. Oliver seconded that. So, all those in favor say aye: Opposed say Nay: The Ayes have it. Blaise we are going to take up your other issue on rule sixteen, we could take it up, I imagine that we are going to table that as well. Considering we are having this bigger discussion, so let's show that tabled. I know you have to leave Mr. White as well at two thirty. I want to be conscious of that so we can get as much of this meeting to move forward as possible.

## **F. Proposals:**

### **F1.- (Charter Cap Public Hearing # 2)**

Mike Haridopolos: So, let's move back to item F. which is the Charter Cap. We are in Public Hearing number two and requesting public comment on the Charter Cap hearing number two. So, we have Sandra Sullivan here who has asked to speak on the Charter Cap. Ms. Sullivan welcome. And we have been giving people, what is it, three minutes (inaudible)

Sandra Sullivan: Sandra Sullivan South Patrick Shores. So, I have attended the County Commissioner meetings for over three years and one of the concerns I have is the number of tax increases we are having related to the tax cap, Charter cap rather. I think they want to do away with this so they can address essentially higher taxes on property assessment on property taxes. A year ago, they looked at, in the budget review committee as an example, that they had a lot of growth. They needed to fund that growth and they were looking at bonds for utilities. A year went by and we just had a utility increase, eight percent for most residents, thirteen percent in some other areas over each year for the next five years. So, when we are looking at the future with a lot of inflation coming, there is a lot of pressure to do away with the Charter Cap, but I think there is some inequity here because I think there is a lot of pressure coming from the developers to not pay their share of impact fees. Impact fees have not been increased, some of them have not been increased since 2000, and some of them 2008. In 2016 we had an impact fee study for example transportation that recommended sixty-six percent increase. That was not passed, and at that time development had exceeded the boom prior to the crash. And so, I think prior to consideration of a Charter Cap, we should be addressing the impact fees and looking at where the County stands financially, prior to putting the burden on the residents of Brevard to pay for growth. Thank you.

Mike Haridopolos: Thank you, are there questions? All right, seeing there are no questions we have, there is no one else here on the Charter Cap unless you would like to be heard before we go to the next item. Anyone else on the Charter Cap? Okay, thank you. All right let's move to the second item, and that is the recall of school board members.



## F-2-(Recall School Board Member Public Hearing #1)

Mike Haridopolos: This is our first official public hearing, we have two more to follow. I have about fifteen cards on that. And so, we are going to allocate two minutes for each person, and after each person is done speaking if anyone on the commission would like to ask a question of the presenter that would be of course welcome as well. So, let's start with Katy Delaney from Cocoa, Florida.

Katy Delaney- I apologize for my speed reading. Good Afternoon committee members. I am here in favor of updating the County Charter to include school board members to the list of elected officials that are eligible for recall in Brevard County. We are currently dealing with many issues within our district due to poor leadership and decision making. Due to time allowed I would like to focus on three of these many issues. The first is finances. Right now, our school board has a debt consolidation loan that will total 512.7 million dollars. They are mismanaging our funds. Second, according to the district there are more than fifty percent of our students are below grade level in math across the board, regardless of race, age and gender. And reading is not much better. Thirdly, I want to bring to your attention and to the State Attorney, Phil Archer's attention the fact that BPS is currently in violation of Florida State Statute 847.102, 847.001, 1006.3. With each violation a third- degree felony is appropriate. .They are currently distributing sexually explicit content to our children of ages eleven and up. Two out of the five school board members don't see an issue with rape, pedophilia, explicit sexual acts being described to our children in Brevard. They should all be removed immediately, and held accountable for endangering our children. Parents and taxpayers, need a pathway to remove harmful or neglectful people from the school board. If recall is not an option, I am calling on Phil Archer and Sheriff Ivey to prosecute these people to the fullest extent of the law. Thank you.

Mike Haridopolos: Are there questions? Also, if you wish, what we did in the last meeting is I know you had more remarks to make. If you share those with Melissa, she will share those with the committee whatever you have typed out because I know there is limited time otherwise. So, feel free, and that goes for everyone of course here, we only have so much time, so if you have your talks, or presentation, feel free to share those with our staff and those would be disseminated, not just to us, but it could be done publicly.

Katy Delaney: Thank you.

Mike Haridopolos: Thank you so much. All right, Amy Kneessy. Welcome.

Amy Kneessy: I prepared for three minutes also, so I will talk fast. Hi, I am Amy Kneessy, I was the School Board representative from 2004 until 2016. And my goal was to go off and be a private citizen and never be heard from again. But last year, I filed a First Amendment lawsuit and led the charge against Brevard Public Schools, and so I am here today to tell you why, and why I believe the recall needs to be added to the County Charter, and I want you to know exactly what has changed. Just to first start off, let me explain how school board meetings now start off across the street. At the beginning of every school board meeting, and prior to public comment the Chairman reads a statement that all audience members are subject to arrest, up to six months in jail and a five

thousand dollar fine if the Chairman deems them out of order and has them removed. That is the welcome all audience members get. Then when it comes time to speak, you are told that your comments can be addressed to and only the Chairman. And get this, you may not address, state the name of or even look at the other school board members or you will be immediately stopped from speaking. Your comments cannot be, and I quote” personally directed, abusive, obscene or irrelevant, and the Chairman is the final judge. So, as I am looking at you today, I would be called out of order. One example I can give you is that counts as a violation is the Chairman found the words liberal left as being offensive and stopped the speaker from continuing. The audience also has special rules: they are not allowed to make any noise or sound, and if they do the Chairman will clear the board room. And yes, this did happen, two people were allowed, the Chairman cleared the boardroom. The board went back into meeting, locked the door, and none of the audience members were allowed to return. So, they had a meeting without the public present because of a few audience members. The public policy on speaking was changed to discouraged people from signing up. If there is ten people or less.

Mike Haridopolos: I have a question: can you go on for a minute please?

Amy Kneessy: Pardon?

Mike Haridopolos: Can you please go on for one minute please?

Amy Kneessy: Okay, if there are less than ten people the speakers get three minutes, if there is more than ten but less than twenty you get two, if more than twenty speakers show up, than all speakers only get one minute. If you are not on topic you are moved to the end of the meeting, and for a period of time the board actually had the cameras turned off so people watching from home could no longer see. I am going to jump to the end because I wrote down comments that board members have made at meetings. These are the things they have said: I wish we don't have to have any public comment at our meetings; I don't have time to do my job and listen to the public; these meetings are for us and not the public; and my personal favorite that I will close with: If someone wants to talk to me they need to call, email or set up an appointment. That is the attitude, that is why I am not a private citizen anymore, that is why I have hired the institute for free speech out of Washington DC that is representing me and several others. We can't wait four years. That is why I am here, advocating for a recall because it has become that bad now across the street.

Mike Haridopolos: Thank you. Are there questions?

Gabriel Jacobs-Kierstein: So how long has this been going on?

Amy Kneessy: Since January of last year.

Gabriel Jacobs-Kierstein: Are your particular concerns with one member or the group as a whole?

Amy Kneessy: It is the group as a whole. The group as a whole voted to approve their new policy.

Gabriel Jacobs-Kierstein: Okay.

Amy Kneessy: This is not an attack as some have led to believe, that this is an attack against one particular board member. No.

Gabriel Jacobs-Kierstein: Have you, because you are obviously very experienced, you have been around this for a long time. Do you think that there is any motives on the part of the board, or if there are, what those might be?

Amy Kneessy: I think the motive was made very clear even as recently as Tuesday night's board meeting. They do not want parental input. One board member Tuesday night, they were trying to figure out a way to give other people more time that got pushed to the end. One board member suggestion was, well let's allow employees to have this, and another person said, well let's allow students. Not one of the five board members ever used the word parents. Parents are not welcome, parents are not included, and as you can see from the comments, we are told very clearly, if you want to speak to us...and I think one of them said: This is not the place to speak to us. We don't have time.

Gabriel Jacobs-Kierstein: Okay, and you said that you filed suit, right?

Amy Kneessy: Yes, the suit was filed last September. We have been to court for an injunction and we are headed to mediation but the case is ongoing. Our case has led to several not only in this state but across the United States.

Gabriel Jacobs-Kierstein: Okay, all right so do you know what the case name is by any chance?

Amy Kneessy: I don't have it here in front of me. If you want to contact me.

Mike Haridopolos: If you don't mind, why don't you share that with Melissa when you get (inaudible)

Amy Kneessy: And actually, you can google Institute for Free Speech, there is a link with a website with all of the court documents on there with our case.

Gabriel Jacobs-Kierstein: Okay thank you. And I am assuming a lot of what you brought up today is going to be contained with-in the documents right?

Amy Kneessy: Yes, it is.

Gabriel Jacobs-Kierstein: Thank you ma'am.

Mike Haridopolos: Thank you. Other questions? Mr. White for a question.

Bob White: Yea, just very quickly, is there a phone number or an email that we can get ahold of you directly?

Amy Kneessy: How about if I, well I have no secrets. It's Amy Kneessy, but my phone number is 321-720-0123.

Bob White: Thank you very much.

Mike Haridopolos: Mr. Neuman for a question.

Dave Neuman: In relation to the, you said that there were new rules that were put in that was voted on by the entire board. I am remembering that they had limited public discussion back in October if I recall?

Amy Kneessy: Correct.

Dave Neuman: Is that after that, or are those the rules you are referring to?

Amy Kneessy: Those are the rules.

Dave Neuman: Okay, I don't know if this is Chairman I am going to kind of lean on you.

Mike Haridopolos: Okay.

Dave Neuman: Does this board, are we able to send any kind of or discuss having a free speech motion? I am seeing a different issue here rather than a recall. I am not trying to hijack your issue. But to me it seems that you have not been given the opportunity to speak, be heard in a way that is consistent with the meeting. I am a former City Clerk and.

Amy Kneessy: I was told the only legal recourse because there isn't a recall for school boards that we could access, we either had to wait for a new election, or we had to file in Federal Court. And I found the best law firm in the Country, which is out in Washington DC.

Dave Neuman: I guess the question I am getting at is: Is it possible, I don't know if this is something I could ask the attorney to look into. Are we able to entertain a proposal that would allow for public comment to take place in the same way that the rest of the meeting is taken care of? So, if there is an agenda item, say F1 or F2, are they able to have Public Comment at that level, just like they are at F1 or F2, is that something we could send to the voters? Are we able to ask them to look into that?

Mike Haridopolos: We can look at anything we want.

Dave Neuman: Okay. (laughter)

Amy Kneessy: We can take any and everything, but I mean I didn't have time on here, but they have even limited the number of people in the board room. There is a large room behind the board room that when I was on the board, we opened up for people to participate. That is no longer allowed, the doors are locked and people are kept outside.

Dave Neuman: I am a former elected City Clerk. I have stayed late into the night for many meetings. I get it. I definitely personally concerned on that.

Amy Kneessy: It is just as new policies that board members said during the meetings, we will not stay late any longer.

Dave Neuman: Okay.

Amy Kneessy: Anybody else?

Mike Haridopolos: Thanks, Ms. Kneessy great to see you. All right next we have Chris Bird. Welcome Ms. Bird.

Chris Bird: Thank you. Good afternoon. I just want to express my gratitude for the opportunity of giving tax paying citizens to address their grievances through updating of the Charter to allow for elected school board members to be recalled. When any elected official is in non-compliance with the law, what other remedy is there? Citizens should not have to wait out that school board member's term to vote them out. The only fair remedy is clear, a timely ability to recall that school board member. Thank you.

Mike Haridopolos: Thank you Ms. Bird. Other questions for her? Thank you. Crystal Kazy. Welcome.

Crystal Kazy: Thank you. Good afternoon committee, and good afternoon Chairman. Thank you for having us today, and I would like to say thank you all very much for considering the recall of school board members due to the non-compliance with State laws, and in addition to prior comments, I would like to say in agreement that your citizens voices need to be heard. And in several cases as has already been presented to you, we have not been given the opportunity for our voices to be heard. So, it is very important that your constituents have a voice, and it is not in any way, shape or form, watered down or diluted in any way, shape or form. That these issues are brought to light so that your citizens have the opportunity to vote on them. So, thank you very much for your consideration and for your time to consider the recall of the school board members for BPS. Thank you.

Mike Haridopolos: Thank you, any questions? We have Sara Mirsky. Welcome.

Sara Mirsky: Thank you. Good afternoon Chairman Haridopolos and members of the County Charter Review. I am Sara Mirsky. Wife, mother, registered voter, tax payer and constituent of Brevard County. A group of us have been deeply in contact with our Brevard delegation, and they have advised that because we are a Charter County, it is written within the County's authority to make this amendment to include school board members. I am speaking in favor of adding school board members to be able to be added to be recalled. This is not a Democrat or Republican issue. This is a bi-partisan issue. When school board members do not follow the law, or have broken their corporate fiduciary responsibility, or go against their oath of office to uphold the Constitution of the United States, the voters of Brevard County should be able to recall said school board members. An example of recalling school board members is what the voters of San Francisco California did. They recently recalled three school board members, and San Francisco has a different political landscape than Brevard County, however, the Brevard Public School Board recently enacted a public input policy that goes against our First Amendment Constitutional rights. That is why the three school board members from San Fran were recalled. The BPS board is also currently going against a Florida State Statute by having explicit materials in their school libraries. I actually appreciate the fact that a recall process can be difficult, and has a timeframe and has to go through checks and balances. All we are asking is that we be given the opportunity to do this. The voters, tax payers and constituents should be able to recall school board members in Brevard County. Please add school board members to be able to be recalled to the Brevard County Charter. Thank you for your time.

Mike Haridopolos: Thank you very much, any questions? Thank you for your time.

Sara Mirsky: Thank you.

Mike Haridopolos: Diana, your name is

Diana Haines: Haines, sorry I write like a doctor or a lawyer whichever (laughter).

Mike Haridopolos: Thanks for joining us.

Diana Haines: Thank you. I am not here to educate you, but I would like to read something into the public record. It is the word malfeasance. The definition, misconduct or wrong doing especially by a public official. Evil doing, the doing of that which ought not be done. Wrongful conduct, especially official misconduct. Violation of public trust, or obligations specifically the doing of an act which positively is unlawful or wrongful in contradiction of malfeasance. So, it is the doing of an act which a person ought not to do. An illegal act or doing of what a person ought not to do. That is malfeasance. Official misconduct could be violating the lawful and legal executive order of our Great Governor, put in place by banning mask mandates in schools. That might be malfeasance. Evil doing could be the failure to protect our children from early sexualization, sexual abuse or sexual deviation. That might be malfeasance. The violation of public trust or obligation could be the misappropriation of school board tax payer funds to pursue frivolous and vindictive lawsuits, or create lawsuits as might be a result of the wrong doing. All of that may be malfeasance. We the taxpayers, have a right to take public officials and call them to task and remove them if they fail to do their due diligence or follow the wishes of the taxpayers and the law. Our school board is violating the public trust, and the laws on so many levels that we are entitled to have the right to remove these individuals. We shouldn't have to endure their illegal activities or anything for the total of four years without having avenues to remove them. And that is all I have to say.

Mike Haridopolos: Thank you so much.

Diana Haines: Thank you very much, thank you.

Mike Haridopolos: Kerry Takacs

Kerry Takacs: Hi, I am here today before you to ask that you seriously consider adding a recall option to the County Charter. It is incredulous that there is no path for parents and taxpayers to recall school board members. My biggest concern other than our First Amendment rights being violated by our present board, are the sexually explicit material available in schools. As of today, our schools continue to carry pornographic material in their libraries. This was brought to light as recently as Tuesday at our last school board meeting. Concerns coming from parents and taxpayers alike, have not only been ignored, but met with animosity from some of our school board members. References to some of the children having access to Tik Tok on their own time are used to justify having the material in our libraries. It is against Florida Statute 847.12 to do this. It prohibits an adult knowingly distributing to a minor pornographic material. Additionally, yesterday a teacher from Stone Middle School here in Brevard was arrested for five counts of distributing harmful material to minors, as well as an unlawful use of a two-way communication device. So, not only is pornography present in our schools right now, but we have teachers distributing it to students. This while one of our school board members has

vocally defended the explicit material in question despite concerns voiced by their constituents. It is imperative that parents and taxpayers have a path to rectify the blatant misrepresentation from their board members. Waiting three more years for the next election is three years too long when it comes to the well being of our children. Thank you all for your time.

Mike Haridopolos: Thank you so much, seeing there are no questions. Thank you. All right, Pamela Castellana.

Pamela Castellana: You get closer every time. Castellana, but you get close. Good afternoon, I actually have fifteen copies so you do not have to make them.

Mike Haridopolos: Thank you.

Pamela Castellana: So, I was recently accused of being rude to the members of the board in February. What is rude is intentionally misleading the public which Mr. Trettis appears to be doing. I am not opposed to the concept of recalling school board members, go on the record. His excuse for ignoring all present State Statutes is as follows: The school board's face mask requirement was voided only because Governor Ron DeSantis and the Florida legislature passed a bill in special session in November 2021 which prohibits a district school board from requiring a student to wear a face mask. If Governor DeSantis were not the Governor of Florida, the Brevard County Public School Student's could have had to wear face masks in schools indefinitely as students are now ordered to do in states like California and New York. At the February meeting, I gave Mr. Trettis the benefit of the doubt that he was simply ignorant of the facts and had not taken the time to glance at the minutes of the school board meetings. So, I presented those facts as followed: The mask policy as approved by the School Board last year was never indefinite. On October 4<sup>th</sup>, the Brevard School Board set metrics in place giving the Superintendent the power to rescind the policy when Brevard County's positive case rate reached fifty out of one hundred thousand cases. That allowance was approved by three of the board members: Misty Belford, Cheryl McDougall and Jennifer Jenkins. The threshold was reached two weeks later and the opt out was added well in advance of DeSantis's overreach. Trettis has neither withdrawn or edited his request or his rationale for it. I can now only assume malicious intent at this point rather than ignorance. To say this is not politically motivated is demonstratively untrue. On June 30, 2020 County Commissioner Bryan Lober asked for a mask mandate for our entire county. Yet I don't see any attacks on the County Commission's ability to serve their term. And finally, even Mr. Luebker agrees with me, miraculously enough. He recently posted on social media under one of his alias's that we don't recall people based on just their party or a vote. It takes malfeasance, it's a very high bar. Not just passing a local ordinance but recall, and I have a screen shot of that post as well as evidence connecting his alias to Mr. Luebker.

Mike Haridopolos: Okay, thank you Ms. Castellana.

Pamela Castellana: Any questions?

Mike Haridopolos: Mr. Trettis for a question.

Blaise Trettis: You do know that Mr. Lober could be recalled according to Florida State Law, don't you?

Pamela Castellana: Yes, I do.

Blaise Trettis: Okay, so the voters already have that ability to recall him for his decision, but they do not have the ability to recall school board members.

Pamela Castellana: I don't have a problem with having the ability to recall the school board member. My problem is that your entire premise of it is based on a misstatement of the facts. You claimed that they would still have masks today if not for the Governor's executive order and that is not true. A parental opt out was put in place well before the executive order was approved by law.

Blaise Trettis: Okay, well that was just one reason. The other reasons are matters such as the transgender policy of the public- school system here in Brevard County, which allows K-12 grades to use the same bathrooms, locker rooms and shower with children of the opposite sex. Do you approve of that policy?

Pamela Castellana: That is not the policy I am addressing in my statement. I will be happy to address that with you at the next meeting.

Blaise Trettis: Well that is one of the reasons why this proposal is submitted so do you approve of that policy?

Pamela Castellana: My disapproval of you is that you are misrepresenting the facts on the mask policy.

Blaise Trettis: If I am wrong (inaudible as both parties speaking at once)

Mike Haridopolos: Mr. Trettis hold on, let's do one at a time please finish your comment, and once he starts talking, let him respond.

Pamela Castellana: Do you agree that you were misrepresenting the facts of the mask mandate Mr. Trettis?

Blaise Trettis: I may have been wrong on the facts, and if I am I was wrong on the facts. If you are right on the facts, then you are right. I don't know the facts, I guess speak for themselves. So, if I was wrong, I was wrong. I don't have any problems saying I was wrong on the facts, if I am wrong on the facts. But that is just a little part of why this proposal was made by me okay? The School Board did order mandatory mask wearing. The timeline, when it went away when it didn't, is not all that important to me quite frankly because they ordered it against the Governor's Executive Order. That is what is important to me.

Pamela Castellana: May I respond?

Mike Haridopolos: Yes

Pamela Castellana: Actually, it may not be important to you, but it is important to many, many, voters in our County. In fact, there were no surprise on Jennifer's stance on mask mandates. Her entire campaign was run on that, and if I finish my statement: a recall is



and should be a high bar. Mrs. Jenkins won her election on her stance on the need for mask mandate as the only life saving strategy available to our school board was widely known. She had stated in public debates, interviews with the newspaper and even conservative radio talk show host Bill Mick. And Mrs. Jenkins won that election with 54.6 percent of the vote to her opponent 45.4 percent. That was the recall that mattered. I served as her campaign manager and we even had a State Representative had his wife tell us that is why she voted for her. So, I understand it is not important to you, but it is important to some of the voters, and the reality is you misrepresented those facts as they stand. And I presented them to you a month ago, and you have not edited them so you continually are misrepresenting those facts. That is what I want on public record.

Mike Haridopolos: Thank you. Mr. Trettis do you want finish up, or?

Blaise Trettis: No sir.

Mike Haridopolos: Mr. White for a question.

Bob White: Yes, Mr. Trettis asked you a simple yes or no question, and I was just wondering if you will answer that.

Pamela Castellana: No, I don't want to answer that question, thank you. (laughter)

Bob White: You said that you included it in your, your

Pamela Castellana: No, I did not include any comment on the transgender of the (inaudible- Ms. Castellana and Mr. White both speaking at same time).

Bob White: Why did you tell Mr. Trettis that it was in your report?

Pamela Castellana: I didn't say it was in my report, in fact I said I would comment next month. It is on record what I said, would you read it back?

Mike Haridopolos: Let's just like we did a minute ago, let's let one person talk and then the other. Okay. Mr. White for your question

Bob White: He asked you a yes or no question, and it was my understanding that your response was I addressed that in this report that I am leaving behind.

Pamela Castellana: That is actually a mis-understanding. What I said was that I did not address that today, I will be happy to address that at the next meeting. And I believe we have words being transcribed here that could be read back.

Bob White: It is a simple yes or no.

Pamela Castellana: You can badger me all you want

Bob White: You are badgering everyone on this, you are badgering everybody up here.

Mike Haridopolos: Okay, okay, thanks for your time. Great to see you.

Pamela Castellana: Thank you Mr. Haridopolos.

Mike Haridopolos: All right, Karen Colby.

Vic Luebker: Mr. Speaker?

Mike Haridopolos: Yes.

Vic Luebker: I just want to say, correct me if I am wrong, but it was my understanding when you put this forward you had very strict rationale: malfeasance, failure to do your job, or the commission of a felony. I don't see how masks are that big of an issue and why we are having that discussion. We are talking about recalling somebody it is because they did something big, and that is my understanding where you were coming from on this. Am I wrong?

Blaise Trettis: The proposal actually does include malfeasance, but the second grounds is the up to three votes by a school board or school board members. The reason I put that in there is because the Statute that the recall proposal is patterned after is very vague. It has reasons like drunkenness, incompetence, misfeasance. If you look at the litigation under the existing recall statute, that is usually where the litigation is, and that is usually where it is stricken down, because those are so vague and undefined. But what is incompetence? What is misfeasance? So, they are stricken down. So, what I wanted to do was make it perfectly clear that here is a transcript of the motion that was made and the vote by the school member. So, if people want to remove a school board member because they, in fact want children of all ages to use the same bathroom, showers and locker rooms, they will have the opportunity to do that because there is a motion in the record, and the school board members vote on it. That is why I did it the way I wrote it.

Mike Haridopolos: Thank you, we have Karen Colby- Welcome.

Karen Colby: Hello, I am Karen Colby, I am beachside district three for School Board. About the recall petitions and all of that. We are not given any other recourse. I know someone else said that, except for to change the Charter. Back in 1865 the colonists were not allowed to choose representatives in Parliament in London. They passed laws on which they were taxed. This led to taxation without representative ( inaudible) and the Boston Tea Party in reference to the Stamp Act Congress. So, in 1765 they declared that the English Crown was not going to be able to represent them anymore without them having their own representation over in England. These were the colonists, so that started basically the Revolutionary War. In other Charter Counties these call for the removal of school board members, it affords a remedy. We don't have a remedy. A remedy is needed in an untenable situation. I would emphasize that this is not a direct attack at any one individual. This is about our rights to use the First Amendment and say that we insist that these individuals follow Florida Law. Our Governor said that they are not to mandate children to masks, which they did. Other states are trying to mandate vaccinations. We need to stop this now, so that we can remove anybody that tries to mandate vaccinations. This is a right that the taxpayers have because we fund the private schools and the public schools get money from our taxes. If we don't have the right to stand up and say something, it's taxation without representation and that is tyranny.

Mike Haridopolos: Thank you Ms. Colby. Any questions? Thank you so much for your time.

Karen Colby: Thank you.

Mike Haridopolos: All right, Jonathon from West Melbourne. His handwriting is very unique, so it is Maikisch. He must have left. All right Michelle Barrineau. Welcome.

Michelle Barrineau: Thank you, this has been my first time here, this has been a very interesting experience. I am a Brevard County resident. Mother of a Brevard County School attending child. I don't think recalls are necessary. We have a mechanism for deciding who serves on the School Board, it is called an election. It's ironic because I heard several quotes here today. I am very sorry Mr. White had to leave. Talking about the sanctity of the vote. He said the reason that you didn't need a supermajority for the Commission because the people are "people of Brevard County that choose to vote." Okay, another gentleman over here said, I am sorry, you said, "people could depend on it because they voted for it." And then another person said that "the voters were involved in the process because they wanted to be heard." I came out, I voted for my school board member. She happened to win. Now, people who are in a very vocal minority who are not happy with that feel that they are living in a tyranny. I am sorry, elections have consequences. There is a winner and there is a loser. Throughout our Country, recall measures tend to fail. Only 5.5 percent of recall measures are successful. In the process of going through a recall, there is an extensive amount of resources being wasted. You have heard people talking about their problems in our schools. Let's focus on fixing those problems. Let's not run for the same office every year, okay that is a waste of time. I have heard people talking about who is going to pay for the recall election. Whether it is going to be the School Board or somebody else. I can tell you who is going to pay. I know the answer. I am going to pay, you are going to pay, you are going to pay, we're all going to pay. The taxpayers are paying for it. We already paid for an election, there was a result, let's live with it. I don't want to be involved in a never-ending process of the same people trying to fight for their job. I didn't come prepared to talk about the freedom of speech issue that I heard someone talking about, I would love for someone to ask me a question because I was at most of the Board meetings and can give you a different viewpoint of what actually happened in that room.

Mike Haridopolos: Are there questions? Mr. Luebker, go ahead.

Vic Luebker: I will give you an opportunity.

Michelle Barrineau: Thank you so much. (laughter) This gentleman asked what motivated

Vic Luebker: Let me ask my question first, appreciate it.

Michelle Barrineau: Please.

Vic Luebker: You say you are opposed to recall. So that is everybody? All offices?

Michelle Barrineau: I think either everyone elected should be recalled or nobody should be recalled, and why is our Governor not allowed to be recalled?

Vic Luebker: So, you are opposed to recall?

Michelle Barrineau: I think it should be consistent.

Vic Luebker: That it should be everybody, or nobody?

Michelle Barrineau: To be honest, I am inclined not to recall because there already is a mechanism in place. If somebody breaks the law, they will more than likely be arrested and there is a

Vic Luebker: That is one of the mechanisms for recall.

Michelle Barrineau: Absolutely, well it's not a, well

Vic Luebker: It is.

Michelle Barrineau: Well its removal from the job, it's not a voter recall. There is a difference, right?

Vic Luebker: That is also a mechanism for recall.

Michelle Barrineau: Right, but asking the voters to come back in and change their vote, that is a whole separate thing.

Vic Luebker: Why shouldn't voters have final say and accountability on who their elected representation is?

Michelle Barrineau: They should. They did. They came to the polls. I went to the polls and I voted. Now you are saying it doesn't count because ten people in the room who are loud didn't like it?

Vic Luebker: That is not what I am saying. Going to the polls and voting for someone, you are voting on policy, you are voting on politics. They haven't done anything wrong up until that point. There was no malfeasance, there was no not showing up to do their job, there was no felony committed. Once those things happen, the voters still have to have a mechanism, accountability

Michelle Barrineau: And they do. You can remove an elected official for malfeasance. That is written in the law. There is a mechanism.

Vic Luebker: (inaudible)

Vic Luebker: Mr. Chair, I am good.

Mike Haridopolos: Again, so, finish your thought. I just wanted to make sure it is one person talking.

Michelle Barrineau: I am sorry.

Mike Haridopolos: Finish your thoughts please.

Michelle Barrineau: So, I was at the School Board meetings, and that gentleman asked what the motivation was for cutting the time down from three minutes. Having the person address the comments. It was the safety of everybody in that room. That was the most unpleasant environment I have ever been in. My husband didn't want me to go to the next one because he thought there were going to be shootings. I have never seen such ranker and venom. And that few little discourses that we have seen here that have gotten

heater, that is a drop in the bucket as to what was happening in those School Board meetings. The Chair did the right thing by trying to calm everyone down and attend to the business of the School Board meeting. That was the function. It wasn't for people to get up there and scream at each other. And, in terms of removing people's First Amendment rights, everybody has three minutes. Guess what, there was one meeting where there were about three hundred people there. Not wanting to work late is one thing, not wanting to never leave the building is another. Everyone got treated equally, everyone's time got cut equally. Everyone had a chance to get up to the microphone and speak. I am sorry it was one minute instead of three minutes, come back to the next meeting. Write an email. I have written tons of emails to the Board. I get responses back. No one's freedom of speech is being removed here. Everyone is being treated equally. You have a chance to speak. You don't have a chance to yell, call names, threaten and disrupt the room. You need to be respectful correct? So, all of those things that I heard, I was at many of those board meetings and that is not what I saw. I saw a board doing its job at an incredibly difficult heated situation, and I applaud them for showing up because it was scary. It was scary in that room. Thank you.

Marie Rogerson: Mr. Chair, I have a question.

Mike Haridopolos: Ms. Rogerson for a question.

Marie Rogerson: Thank you for coming in and speaking today. You in your comments addressed members of our board by name. People who address our School Board are not allowed to do that. Do you believe that is correct?

Michelle Barrineau: I don't believe it is a reason to recall somebody.

Marie Rogerson: But we weren't talking recall right, we were just talking about freedom of speech? So, I am just curious on your thoughts on that matter?

Michelle Barrineau: Yea, I could see being able to call people by name, I don't have an issue with that.

Marie Rogerson: Okay, so you agree that the School Board is violating that part of that?

Michelle Barrineau: I don't think they are violating, I think they made a judgement call that I disagree with, I don't think there is a law anywhere that says you have to be allowed to call someone by name. Is that? I mean.

Marie Rogerson: I would argue that is part of the First Amendment, but

Michelle Barrineau: You could say the gentleman three people to the left, and everyone knows who you are talking about.

Marie Rogerson: Yea, but they even stop you from doing that at the School Board.

Michelle Barrineau: Honestly, do I consider that a limitation on my freedom of speech? Yes, it is my opinion. I have freedom of speech just as anyone else in this room does.

Mike Haridopolos: Isn't this great that everyone gets to talk here. This is fantastic. (laughter) yea.

Michelle Barrineau: It is freedom of speech, and I fully support it. You know I don't have a strong feeling on that. I can see how it might be construed as interrupting somebody's freedom of speech. But again, the whole point of this Commission here is not to decide how the School Board functions. It is whether or not you have the legal ability to allow for recall. And I don't think that someone not letting someone else use their name is reason to undo an election and to cost us, two hundred to two hundred fifty thousand dollars because I checked with the Board of Elections on what it would cost. That is a waste of money, and I could promise you that what is going to happen is if we go down this path is we are going to spend all of our time re-running elections, and we have important work to do in this County, and we need to focus on it. We may not agree on everything, but let's at least try to get some stuff done and let's try to be civil to each other. Everyone has a chance to speak, I will listen. I don't have to agree with you. And you know what? If you came out and you voted for somebody else and they won, you won this time, and I have to suck it up for four years until I get another chance. That is the way this works.

Mike Haridopolos: Thank you so much.

Michelle Barrineau: Thank you.

Mike Haridopolos: All right we have Sandra Sullivan, our last speaker on this issue unless someone would like to sign up on a card there.

Cole Oliver: Mr. Chair? Before she goes, can I just ask a quick procedural question.

Mike Haridopolos: Sure.

Cole Oliver: For Mr. Trettis on how this would function. The reason I am asking is, malfeasance is the one ground that your petition so far has brought forward for the recall. Who defines that malfeasance? Does a court have to define it before it goes to the voters for the recall, or is it simply the approximately four and a half thousand voters that have to sign the petition, assuming that we remain a multi-district School Board, because I believe there are about four hundred fifty thousand registered voters.

Blaise Trettis: I believe that malfeasance has to be described in the petition. So that is how that works, it has to be particularly described. But, that was the only grounds in the Florida Statute, I thought that had some definitiveness to it. You know, I define malfeasance as a public official acting against the law basically. So, that is why I left that one in.

Cole Oliver: As we have seen sitting here. A lot of people have different views of the law and what would count as malfeasance. So, what I am concerned about is what happens when a petition comes in and there is an injunction put in place to say that what they are grounds for isn't really malfeasance under the law. Then it gets into an argument of the interpretation of the law. Does it go to the voters before that? Or are we left in limbo after that vote? I am just trying to understand the proposal.

Blaise Trettis: What I have seen from just doing a little bit of research, is that the elected official who is the subject of the recall effort files a lawsuit and makes all of the arguments that you are making and the courts decide. Which I think is another good reason to limit

the number of grounds for recall. But again, I really don't think there is going to be any argument to be made by someone to challenge a recall effort when it is a transcript of a motion that was made, and their vote on it. And it does allow the public to remove recall elected officials or school board members for the decisions they make. And I think that should be allowed. Especially when it is mask mandates, vaccine mandates, transgender policy like here in Brevard Public Schools.

Cole Oliver: Still having my concern is that one person's idea of malfeasance on the petition's side, may not meet the court's standard level of malfeasance as it is in case law. I was just trying to get some clarity of how we would get there, what the procedure would be. Is there a halt putting on the County of going through the expense of a special election to find out that the motion that was put forward, that is not actually malfeasance under the law? So, I am just trying to get my hands around that expense, when it is incurred, who decides what is malfeasance.

Blaise Trettis: What has happened from what I have seen is a lawsuit is filed by the person who is being challenged by recall and the courts will make the decision.

Cole Oliver: Can a court make a decision now on Writ of Mandamus function if an elected official is refusing to do their duty or act not in accordance with the law? Can a court issue a Writ of Mandamus to force that elected official to do their job?

Blaise Trettis: I personally, Mr. Gougelman might have a different opinion, my personal opinion that would be extremely limited because elected officials have great discretion in their decision making, and I really think it would just be incredibly rare circumstance where an elected official has to do something according to the law and they are not doing it.

Cole Oliver: Thank you.

Mike Haridopolos: Thank you. Ms. Sullivan. Welcome.

Sandra Sullivan: Yea, good afternoon. Sandra Sullivan, South Patrick Shores. I thought it was very relevant by the D2 rep here that there are other Charters here in Florida that have the ability to recall school board members. I would like to compare and contrast to term limits. Here in Brevard County, seventy seven percent of voters voted for term limits, but previously other, some of the other Charters that are in existence, they had put it in their Charter and it was deemed unconstitutional for a while. It went to a higher court and it got resolved and it was deemed constitutional to have term limits. So, there is a process. I am a parent, I was a parent of three BPS students when I was going to those meetings. They changed the policy that in my opinion, limited my First Amendment Speech. Anything that is not an agenda item, you are only permitted one minute. So, as a parent who has an exceptional student with a disability, and I have an issue and I need to go to that meeting, and I need to convey and make them aware I am very unlimited to that one minute. If I send emails and I don't get responses, which I can say is most of the time, that is my recourse to go to that public meeting and to speak. So, I am in agreement, we have some issues in the school board responding to the parental issues and having that option. Even if it is later challenged, but it is already on a couple Charters

in other counties and so I don't see it as a very heavy risk for Brevard County to consider this. Thank you.

Mike Haridopolos: Thank you. All right that concludes our comments on the School Board Members. This was just hearing number one(laughter). So, you have two more opportunities there. I do have a question for the sponsor, I think to get at Mr. Oliver's questions, and I was reading through Mr. Gougelman's twenty-page memo. I want to get a better feel on the amount of time you think it might take to get that recall process, because as you know there is enough signatures, then the person who is under the recall is in a situation where they can write a comment, and then once those are completed then you have another thirty days to get to fifteen percent. And the reason why I ask, I am just trying again to gauge the financial impact, the pragmatic impact. How long do you think that might take, and the reason why is if the voters approve this recall election, which I happen to think it might, would you just make the recall election just the next scheduled general election? Because of that timeframe. We have of course special elections, I was elected by special elections because the Senate back in the day because of the passing of Howard Futch. I am just trying to understand what you think the timeline would be. Would it be ninety days, would it be one hundred twenty days? Just a threat of a recall I know as a formed elected would be a very big strain and maybe change my opinion on some things, but give me a feel for that. I think that would help the discussions as we go forward so we can tailor this proposal in a way that I think might work. So, if you could take a shot at that, and maybe Mr. Oliver does as well. Mr. Trettis.

Blaise Trettis: I added it up to one hundred sixty to one hundred ninety days from beginning to end.

Cole Oliver: Mr. Trettis, did you coordinate with Supervisor of Elections on the timeline it would take to conduct a special election? The reason I ask is because I have worked with her through a number of elections and there is often a lot of work that goes on before election day. I mean it can be three, four, five months of work to get the ballots prepared, printed, mailed on timely manner to meet the Florida Statutes, especially as they continue to evolve over the last couple of legislative sessions. So, I would ask all of us, or maybe the City Attorney to ask her how long that timeframe is that she would need the ballot to be on a special election. What is her timeframe? And again, I would really want to know what the cost of one of these elections is, just so the County is aware of the cost of such elections should we decide to incur that cost.

Blaise Trettis: To answer is that this proposal would require the Supervisor of Elections to do nothing that the Supervisor of Elections isn't already required to do because it was patterned after state law for the recall of County Commissioners and City Commissioners. So, if there ever had been a recall prior to today of a County Commissioner or City Commissioner in Brevard County, the Supervisor of Elections has to comply with it. So, I did not work with her, there was no reason to. It is set in law.

Mike Haridopolos: Mr. Fisher.

Robin Fisher: Paul, I saw a memo from, I think legal council of the School Board that was making reference to State Statute 1001.32 as whether or not we as a County had control



over the School Board matters, or whether we could recall them, or even put this in place. Does that, are you aware of that, or had any conversations with the School Board Council?

Paul Gougelman: I know the School Board Council, but I don't know what their position would be with regard to this. I really don't. And as indicated in my memorandum, I think the key thing that I leaned on was the Attorney General Opinion.

Robin Fisher: Okay. He makes reference in Statute 1001.32, "governing, the governing and the management control, and operation, administration and supervision of the district school board system and counties are not given any authority in this theme whatsoever". We have no authority. And under Chapter 1001 State Board of Education is really in charge of this issue and determine the laws and rules.

Paul Gougelman: I think that is generally true as going back to that Attorney General Opinion from 1971. That's kind of the theory under which that they were operating. And the theory basically is, is that counties are dealt with, counties and cities are dealt with under a totally different Article of the Constitution than schools. It is just like two different worlds, if you will.

Robin Fisher: Okay.

Mike Haridopolos: Other questions on this issue? One final one Mr. Gougelman, I should know this but is it required that a school board member gets a four-year term? Is it possible for us to say that part of the Charter Review Commission to say that our school board members can be under a two-year instead of a four-year term?

Paul Gougelman: Again, I haven't researched that question, but I think the law requires four-year terms, I believe.

Mike Haridopolos: Okay I think that is the case too, but if you wouldn't mind finding out for sure that would be wonderful.

Paul Gougelman: We will check it.

Mike Haridopolos: All right, I am sorry. Dave, Mr. Neuman.

Dave Neuman: I also want to ask Mr. Gougelman on the speech issue, because that came up on here. Would you know if this body or the County can actually talk about public comment versus the non-agenda item versus the agenda item? I think it was no less than three individuals had talked about that today. Are we able to make a proposal that would be constitutional for that?

Paul Gougelman: What kind of proposal would it be?

Dave Neuman: That non-agenda items would be treated in the same manner as agenda items when it comes to speaking, I guess seen at the meetings. Because I guess at one point they turned off the camera for those folks too.

Paul Gougelman: For County or School Board?

Dave Neuman: School Board

Paul Gougelman: Oh, School Board. Well, I think probably not, and the reason that I say that is I think Mr. Trettis has pointed out in his to repeal the provision in the Charter regarding single member districts. I think basically, I think there is great question as to whether or not the County, through its Charter could enforce regulations against the School Board.

Dave Neuman: Okay. Thank you.

Marie Rogerson: Mr. Chair I just have a quick question since we are talking about the recall and the fact that it could if enacted lead to a special election for a school board member. I think it is applicable to look at what just happened in Palm Bay because the literally just had a special election. They had a counsel member that resigned in August and ended up holding a special election in March. It is not, it's a pretty tight timeframe. Obviously recall process is different because you have to have time for a petition and things, but that puts some kind of timeframe on it. I know when they discussed it, they estimated it would cost them, and I don't know what it ended up costing them, but they estimated that it would cost them two hundred and four-five thousand dollars to run their special election. So that is a, Palm Bay is our largest city, it is not the size of an entire school board district, but that is a point of reference for us as well. Something we can look at as we are talking about the costs that this would have.

Mike Haridopolos: Good Point. All right we are on item number three, full time commissioner. Ms. Sullivan, you are the person who sent this into us. Why don't you take three minutes if you don't mind to present your idea and then from there we will ask questions if necessary, and if not, we will move on to number four, the citizen process.

### **F-3 (Full Time Commissioner Public Hearing #1)**

Sandra Sullivan: Sandra Sullivan. It is not so much that they are a full time Commissioner. It is that they don't have a full-time position in addition to being a Commissioner. And the reason for this, is having attended the meetings for three years, and I look at some of the decision making and analyzing why did things happen the way they did. So, let me give you an example. The topic that has been discussed more than any other topic over the last three years is Solid Waste running out of space at Sarno dump. So, this conversation has had a lot of meetings, and we get to May of 2021 and we are going to run out of dump space this summer. And then they authorize the construction of a new site out on One Ninety-Two. And then nine months goes by and we have the budget review meeting recently and it is like, how are we going to pay for this? We need a study. Nine months after we are starting construction. So, it is crisis management. Some of the comments that have been made over time, at one Brevard Commissioner meeting it was stated that three of our Commissioners do not do regular staff briefings. I was pretty shocked by that. Looking at some of the meetings I attend, there are a number of Commissioners that do not regularly attend the boards that they are assigned to attend. When you have a Commissioner, who has a business on the side, or say consults, or is a realtor or some job that gives them flexibility that he can meet the demands of what the County needs. But when you have a Commissioner that has full

time employment, they don't necessarily have the time. We are a growing County. Our budget is 1.8 Billion dollars and we are growing very quickly. I think with the growth of the County, we have to consider making changes. I think what we need right now, we need people on our Commission that have the ability to have the flexibility to give the Commission the time it needs to perform their duties. I think this relates directly back to the discussion that you are having about remuneration for those Commissioners, and if there is a commitment that they do not have another full- time commitment, I think the tax payers might be more amenable to considering a, you know an increase in their remuneration. But otherwise, I think you would have a hard time with that, and we are going into an inflationary period so I think there will be some objections to that anyway. That is getting off base, but I just wanted to communicate the reasons I attend those Commission meetings, I think more than any other citizen other than the staff members and the Commissioners themselves. Is there any questions?

Mike Haridopolos: Thank you Ms. Sullivan, are there any questions? Yes.

Gabriel Jenkins-Kirstein: Ms. Sullivan, so you are okay with part-time? I just want to make sure that I am following that.

Sandra Sullivan: Absolutely, it is very reasonable for them to have other interests.

Gabriel Jenkins-Kiersten: And with that being said, are you setting a time-limit on that like maybe twenty hours, or thirty hours. I mean what is your thought?

Sandra Sullivan: No definition on that because the general intent is that they being a commissioned board member that they give the time that it necessitates and adjust their schedule accordingly to meet their commitments.

Gabriel Jenkins-Kirstein: Okay, and if this proposal were passed, would you be a proponent for an increase of wages, considering that they could not have another income?

Sandra Sullivan: Considering that I am running, that is a tough question. Here is my general feeling just stepping aside as a candidate. If you want to attract really good people, you want to pay a fair compensation otherwise we get candidates running that don't have a business background, or management background, or even have served on boards or what not. You want to attract good candidates that have the experience that you like to see. It is in many respects like running a business from the monetary understanding, profit and loss and balance sheets and the financial side of it. Having the experience, you know if I was to go out in the private sector and have a job, I would be over six digits. I am not pursuing, and didn't even know this was going to be covered. Monetarily, the pay is not what is motivating me, it is the issues that I am concerned with. But not everybody, while I have the luxury to be able to accept and live on a lower pay, there is some people that you know, have commitments and mortgages and what not that they need to me. So, it does eliminate, it limits more to the people to the people who have monetary resources to run. There are pros and cons. I have no energy one way or the other. I would be happy with the fifty-eight. Just speaking hypothetically to, I think it would be more motivating to the voters end of it, it would be more palatable to them if

they knew they were getting someone who is not just looking at this as a part time endeavor.

Gabriel Jenkins- Kiersten: Well, thank you for your response and your insight on that. But it sounds like to me that you couldn't say one way or the other, is that?

Mike Haridopolos: Could you mark that as undecided on that one?

Gabriel Jenkins-Kirstein: You are getting the political experience in, I will put it that way.

Sandra Sullivan: Let me put it to you this way. I have invested as a volunteer over three years of attending County Commissioner meetings on a regular basis. Obviously, money doesn't drive me. That has been volunteering to my community. So, this wasn't even on the table when I put my name in to run, so you know, I don't have any energy. You know from the perspective would it be nice to be paid more, absolutely who wouldn't say that? So, but you know I am here to my commitment to the community, and I love Brevard and I want to make it better. And, then it gets into I sound political, but that is the truth. I have been doing this already for three years as a volunteer.

Gabriel Jenkins-Kiersten: Thank you ma'am.

Mike Haridopolos: Any questions.

Vic Luebker: Yes, I have a quick question. Sandra let me ask you this: So, let's say that somebody is running for County Commission. You talked about the need for experience, business experience and all that. Life experience. Are they now supposed to give up that full- time business or that job because they are a County Commissioner? How does that impact their ability to do what a lot of people would say is a thankless job because they get their teeth kicked in all the time by the public. You know why would you want to say you can't have a full-time job? I don't, I am not following.

Sandra Sullivan: Because the County is getting to a size. We now have 1.8 billion-dollar budget. We have a very much growing County, and you know I have talked with some of the Commissioners and you know they go I don't even have time to read the details on the agenda. If they don't have time because they have a full- time endeavor to attend the boards. For example, TPO, that is a required board to sit on. I go to those meetings, and not very often, there might be one Commissioner there, or maybe two and that knowledge is important to the decision making that they make up on the dais. The other boards that they sit one, the staff briefings are very important so in one County Commissioner meeting, as I said, it was stated on the dais that three County Commissioners do not attend staff briefings. That knowledge of the staff who run the day to day affairs, that is like being a manager of a company and saying that you are not going to listen to the heads of your department because you don't have time because you have another full- time job. All I am saying is that they can have jobs outside of being a Commissioner, just as long as it is not a full- time position. There is a lot of flexibility with that, I think to find other opportunities, just not on a full- time basis.

Vic Luebker: Thank you.

Kendall Moore: I do have one for you Ms. Sullivan. This is a popular one today, And I will put on the record, and I think Sue and Marcia will chuckle when I say this. Many moons ago when I ran for the County Commission it was a pretty hot issue. I think the piece of mail said from my opponent: Someone with a wife, two beautiful kids and a full-time practice, surely doesn't have time for you. I think that was the way the mail read at that time. And Gabriel and Vic actually asked two of the three questions. One, what constitutes full time, two how do you feel about the compensation? But number three kind of going back to Vic's point, and I certainly for my own personal protection, am not suggesting that you are correct in saying that Commissioners are not adequately informed, don't attend board meetings, don't attend staff briefings and not talking with constituents. But will full time fix that? I could argue that potentially people who don't have full time employment could still fall into the category of those four things that you mentioned, how will not having a full- time job remedy what you pointed out as being the concerns?

Sandra Sullivan: Well when you look at those Commissioners that potentially have those full-time jobs, and you look at them perhaps having that issue more than others, of course there is one Commissioner who is not working full time that is not attending staff briefings, so that could certainly be the case. But as the position we are in right now with the size of our Commission. At least if we start from the starting place and at least there is an expectation that you don't have a full- time job, and I would say that would be defined as, if you own your own practice, you have the ability to hire people to come in and do the functions that you are doing, that is not what I am talking about. Because that is not a full- time job. I am talking about when you have a position, I guess forty hours a week is considered a full time position, so, you know you have a position that requires that amount of hours per week then you don't have that time to put into the County Commission because your commitment is to another entity, whereas if you own your own practice, that is up to you how you are going to manage that. So, I guess that would be the distinction. Being a business owner is different than being a commitment to another entity for that time.

Kendall Moore: Got it. Thank you, Ms. Sullivan. Thank you, Mr. Chairman.

Mike Haridopolos: Do you want to speak on this Sue?

Sue Schmitt: Well since I am the only one up here who was one of those, besides this one, I would like to address that. And, to me, the answer is: there are a lot of people who are here who I would have to agree that less government is better government right now today. We see that in a lot of other areas, and a Commissioner has the right if they want to be there full time fine. If they don't want to be there full time, and they don't have to attend briefings. I would say that if you do your homework, and you read what the agendas are then you would know what you should be doing, or have an opinion on, and the staff, believe it or not does have other things to do like roads, and parks, and SCATS and all kinds of things. So, I would say if you want to be a full time Commissioner you certainly can, it is your option. But Commissioners are not just in that office eight hours a day, they just aren't. You are working, if you do the job properly, you are out doing things

on Saturdays, Sundays, evenings. And, it is truly beyond a full-time job even if you have another job. I would just recommend if you haven't been there you don't know.

Mike Haridopolos: Next we have one additional speaker on this item, it is Karen Colby.

Karen Colby: Hi Karen Colby, beachside, Indian Harbor Beach. I would like to talk about the full time versus part time on the County Commission. When we elect a person to the position, I don't remember having any requirements based on the hours that they are allowed to work outside of their potential elected position. This would lead down a slippery slope of people wanting to come apply to run for this position potentially not get it, and then be able to sue because you made them give up their business, their real estate company, their catering business, their bar. I mean I am not a business person, I am not an academic. I was just a regular hourly employee. I want people who work full time. I want people that have jobs. I want people who know what is going on in the world. I want people who are paying four dollars for gas. I don't want somebody who has come from another Country who gets maybe other funding who can afford to live here, that I don't get to have the say so whether I can have my Commissioner up there twenty hours a week, forty hours a week, or one hundred and twenty hours. It doesn't matter, I didn't elect him, her, she, them, they, it whatever to work a set schedule. I want them at the meetings unless there is a personal opinion, I mean a personal issue, or if they are sick. But, I don't think that we should require anybody to put in forty hours a week on the clock or not run. I mean we would be limiting ourselves to the most talented people from this County. We have the people with the most experience that have gained the instruction to make their own companies. We are listening to a person from another Country who is also a dual resident who wanted a hundred and twenty thousand dollar a year job from the County Commission to work full time as a consultant and got told no. Now they are running for office. I apologize to anybody I offended. But that is the truth of the statement. And, I support our current County Commissioners, all of them. Thank you. Any questions, sorry.

Mike Haridopolos: See none. Thank you so much.

Karen Colby: Thank you.

Mike Haridopolos: Mr. Gougelman.

Paul Gougelman: Yes Mr. Chairman just going back to the item on school board terms. I did check it and State Statute does require four- year terms.

Mike Haridopolos: Thought so, thank you. All right on that item three, we are concluded on that so we have completed hearing one on item three. We are now on item number four is also by Mrs. Sullivan. Mrs. Sullivan, why don't you take three minutes to present that for us, and we will go from there.

#### **F4.- (Citizen Review Process- Public Hearing #1)**

Sandra Sullivan: Good afternoon again, Sandra Sullivan. So, in attending these meetings, so I will tell a story. So, I was a Mom, three kids taking care of my kids and

organic art. Life was bliss, I pinched myself everyday when I got up. Live in a beautiful place. And I find out I live on top, that there is a lot of cancer in my community. I think most people know me as that lady that dug up all the stuff in her back yard, and I did all that research what was formerly the defense site. One of the first places I went to was our County Commissioners for help. Unfortunately, did not get the help I needed. I tried to get items on an agenda and was not able to get items on the agenda. There is really no process that I can find to bring an issue that is of importance to a community and have a citizen driven process to putting something on an agenda. If a Commissioner doesn't want to meet with you and talk to you about something, doesn't have to. Just to be clear on that last item, just as a side jack, I wasn't saying that a Commissioner had to spend x number of hours in the office. Not about a Commissioner being full time, but about not having a full- time commitment. But on this, the way it works right now, which is really not clearly defined in the Charter. It is called Speak Up Brevard. And, once a year in December this form is open on the County website, but most people don't know about it. Even me who attends so many meetings because it is not written in the Charter that this is Speak Out Brevard where you go to and put in a proposal to bring it to the County Commission. So, there is a disconnect there, there is no way to know how that process works, and I sent email to my Commissioner and did not get a response back on that, on how that process works. But December is a bad month for people. I got three kids, I am preparing for Christmas and gifts, and you got school kids coming off of school. I tried to fill that form out, you know, but I had so many commitments in December. It is a hard month and then I went, I will do it December thirty first after five o'clock. I sat down at my computer, it's closed. It closed at five o'clock. Not at midnight, it closed, and the last minute I was going to push it out there it was closed and gone at five o'clock. It said, see you next year. So, if that process, it's just a form. It is not going to cost the County more money. If that form was available at any time with some criteria to have to put it on there, like you have to have so many petitions or supporters or whatever, but just some criteria that the public can bring something to the Commission. Thank you.

Mike Haridopolos: Any questions? All right, see no questions. We are going to go to item number five. Mr. Trettis, I believe that this is your proposal, why don't you go ahead please.

Blaise Trettis: This is a proposal to appeal from the Charter a panel of three attorney's who review Charter proposals by citizen petition and by Charter Review Commission. What is in the Charter now is if either by petition or the Charter Review Commission a proposal passes the Commission, it gets enough signatures on the petition process. It is then forwarded to the Board of County Commissioners who then pursuant to the Charter are then responsible for hiring three attorney's or retired judges, or a combination thereof to review the proposed amendment to opine, like Mr. Gougelman has been asked, to through a memorandum already whether a proposal is not consistent with State law, or special law approved by the voters. The difficulty or objection that I have to this part of the Charter, first of all, there is no other provision like this in any Charter, County Charter in the state of Florida. This is the only one of its type. It is unique to Brevard County. But the objection to it, first of all, conflict of interest. The Board of County Commissioners get to decide who to hire as these attorney's. So, the County Commissioners will be able to

hire attorneys who very likely will decide the matter, could decide the matter, be influenced to decide the matter in the manner that the County Commission would like them to decide. For example, my Charter Cap Amendment proposal. At least four out of the five County Commissioners are against that proposal. Yet those County Commissioners would decide which lawyers to hire to opine on it's, whether it is consistent with Florida law or not. So, there is a conflict of interest that is there. And then secondly, the way the wording is in the three-attorney panel is that the County Commission could actually, I think could have complete decision making whether or not in their view the proposal goes to the voters because if at least two out of the three attorneys opine that it is not inconsistent with Florida law or special law than it shall go to the voters. However, there is case law which I am sure the County Commissioners know about, or the County Attorney will advise them of which holds the word shall in certain circumstances can mean may, be discretionary, and the County Commissioners would be able to rely on that case law. Perhaps the County Attorney's opinion to say, well it's up to you. Even though it says shall, you can interpret to be may and its your decision to send it to the voters. On the other hand, the Charter doesn't say that if only one of the attorneys says that it is not consistent with general law, it does not say that it does not go, the proposal does not go to the voters, but it is only an inference there. There is no specific language that says that and the County Commissioners could say well it's only an inference. It only has one vote, we want it to go because we think it might pass, so they could take that position. So, in my opinion it is a conflict of interest to have this. Brevard County is the only County Charter that contains this provision. It is subject to abuse, you know I believe and to me it is government by a three-panel group of lawyers, not government by the people. We have Mr. Gougelman to answer these questions. The same question that this three-attorney panel would be asked to opine on, we have Mr. Gougelman to ask. I don't think the attorney's opinion would be that much different unless there were that conflict of interest. But I also want to point out that, you know, what if we wanted to hire two or three more lawyers instead of, we just wanted to hire two or three more lawyers to get opinions like Mr. Gougelman has provided? Well in Charter provision 2.9.3.1, oh excuse me that is not the right one. In the very beginning the Charter says that the Charter Commission shall be funded by the Board of County Commissioners, so I think we have the authority to hire our own lawyers if we wanted to, if we wanted to. So, I think this is a really undemocratic procedure that we have in the Brevard County Charter. I don't see any usefulness for it. I think it could be subject to abuse, and that is why I filed my proposal to repeal it.

Mike Haridopolos: Thank you. One question I have, is you mentioned in your comments that we are the only County that has this three- judge provision. Has it ever been challenged in the courts?

Blaise Trettis: You could only be challenged here, because we are the only ones that have it, and it has not.

Mike Haridopolos: Is that accurate Mr. Gougelman?

Paul Gougelman: I don't know.



Mike Haridopolos: I think that is as mentioned no other County has it. What would be the procedure for us to challenge that ahead of time if we chose to?

Paul Gougelman: Challenge the provision in the Charter? You would probably need to get some kind of declaratory ruling from a court, but I am not even sure if you would have standing to do that so

Mike Haridopolos: Because you are in a catch twenty- two, here right? If we pass this, the three-judge panel says (inaudible) and you are out of business. So, I think we might want to explore if this is an idea that our group wants to look at more closely. Clearly there would have to be some type of challenge. We would like to know who would give that legal standing. Would it be a citizen of Brevard County, would it be a group of folks that are assembled today? Because if we are the only County in the state that has it, if this is like a consideration we want to take up. I think that definitive answer needs to be given or we are just wasting our time.

Blaise Trettis: I might suggest that it be delayed until there is a proposal approved by the Charter Commission and the County Commission says we are not going to send it to the voters even though two of the three lawyers got it. I understand that my proposal is prospective only and it changes it in the future. I understand that, but to me it seems like it would be a lot of waste of time and money to challenge something that we might not even need to challenge because for all I know maybe no proposals will even pass here, so.

Mike Haridopolos: Yea, again it is catch twenty-two here. I think it is a serious proposal. To me it does stymie the whole reason why we are here potentially. Where two judges, or two lawyers could decide all the time we put in was worthless. So, if we could just explore that Mr. Gougelman. That might not be a bad idea, just so we understand if we have that option. Because I don't want to spend my summer doing this and just have two lawyers tell me never mind.

Paul Gougelman: So, I get the thrust of where you are going correctly if you could repeat that?

Mike Haridopolos: What I would like to see is that in your opinion how would you challenge this provision in our Charter? Without having to go through the process we are potentially going through because if our goal is because we are citizens of the County, two thirds, half whatever we decide, eight or ten think it is good idea, and then two lawyers say otherwise. They can do that to not just one item, they might not like this entire thing and make this whole group irrelevant. I don't think that is the intention of the voters, that is why they voted for this many years ago. Mr. Jenkins.

Tom Jenkins: You might remember, one of the law firms we interviewed commented about their experience in Orange County where the County Commission did not put something on, and the Charter Review Commission actually took the County Commission to court and I think they prevailed, I am not sure.

Mike Haridopolos: Yes, that is why I would like to look into the history Mr. Gougelman. To see if that is the kind of case we have. If that is okay with everyone else, is that okay great. So, we are on

Kendall Moore: Mr. Chairman I do have one question on that topic. Paul, let me ask you a question, not based on the legal side but you have served on this committee before. What, were you there previously when this three- panel group of attorneys was added?

Paul Gougelman: I don't recall to be honest with you. I don't think I was. I served on the original Charter Commission, and I served on the Charter Review Commission as well, much as this body, and I don't think that this proposal had been put into effect at that point.

Kendall Moore: Mr. Chairman, I would also be interested in the history. When did it come about you know, when how and the like. And then the last question, Mr. Trettis on your concern of the County Commission having the choice. Let's assume that for the basis of my question that the three-attorney panel had merit. I have at least heard it stated before that making those decisions rather than going to the single attorney, you get the three-panel attorney like you said assessing legality, constitutionality and the like for the threshold to get on the ballot. Let's assume that it was something that was important, when it was at least argued to me when I was hear the last time if it was, handled incorrectly could be of magnanimous cost if you put forth something that had some constitutional or legal challenges. Let's assume that it is a viable thing to do, because if conflict is your concern would you feel better if this body was the choice for those three attorneys if that process actually had merit? Would that solve your concern relative to conflict?

Blaise Trettis: No, I think we already have the ability to hire additional lawyers. I think if we want more than Mr. Gougelman's opinion then I think we can hire other lawyers ourselves. Like in the example of this recall petition, you know a close call, I don't think an experienced other good lawyer would come to any different conclusion. The courts could either way on that, I think. I will make certainly an argument that it is consistent with general law, and I could put that in writing, but I think we have the ability to hire additional lawyers if we want to, so I don't think the Charter needs to be changed in anyway. This just needs to be repealed in my opinion.

Kendall Moore: But I was asking very specific to the conflict issue because you raised a concern that the people who actually choose them could make a choice that impacts the opinion of based on who is paying the bill and who they represent, and so that was my question. So, you would still feel the same way? You would like to see the lawyers go whether it is chosen by this body, or the County Commission?

Blaise Trettis: Yes, because like I said, we can already hire more lawyers if we would like.

Kendall Moore: Thank you Mr. Chairman.

Mike Haridopolos: Thank you. Are there any other comments on item number five? Now that it has completed its first hearing. Mr. Gougelman you have got some more homework.

Paul Gougelman: I do.

Mike Haridopolos: If the staff could work on the history on that side, it might save us some money too.

Sandra Sullivan: I put a card in.

Mike Haridopolos: Oh, I am sorry. Ms. Sullivan, give a comment on that. Welcome back.

Sandra Sullivan: Sandra Sullivan, yea so just as an example of a potential conflict of interest, I have talked to some staff and they would like to see the Charter Cap removed for the reasons I discussed earlier. So, in talking to other Counties about what they have in their Charter, I would like to give an example to compare and contrast. I spoke to Sarasota County, and they actually took it a step, you know they don't have the three attorneys, but their Charter Review is not appointed by the Commission, by the County Commissioners. They are elected. I just wanted to put it out there because we are reinforcing that this is a body who reflects the will of the people to allow the voters to have an opportunity to vote on things that are important to them, and so I thought it was kind of interesting to compare and contrast what Sarasota is doing. Thank you.

Mike Haridopolos: So, we have completed the five items that were placed before us. I also wanted to bring to everyone's attention we have received a couple of more proposals that would not be considered reading number one, but what we have done in the past, maybe to our dismay, we brought these issues up so they people can quickly present them, which I believe the sponsor of the first one which is Michael Myjak is he here? Michael come on up if you don't mind. We will give you three minutes much like we did everyone else. We will do the same Blaise for yours that has been introduced. We are not going to have a big comment on it, but at least introduce the idea so that when we do our reading between this meeting and the next, people have a better concept of what they are going to be handling, in the quote, first reading. So, Mr. Myjak thanks so much for being here, and taking the time to put forth your proposal.

#### **F-6 (Right to Clean Water- Information-Introduction)**

My name is Michael Myjak, and I represent myself and my colleagues on the Indian River Lagoon Roundtable. That is IRLroundtable.org. We are an organization, non-partisan, non-affiliated, grass roots people that explore environmental issues that have significant adverse effects on our Indian River Lagoon Estuary. Today we are here to propose the right to clean water a Charter amendment. Out of shared desire to save the Indian river Lagoon, a natural wonder, which in years past has had much income to our area. Our Florida Constitution charges the citizens of Brevard County with the power and responsibility to protect our business, visitors and economy from legalized harm. Can you imagine water, the source of our life on Earth having no such protections? The right to clean water must be spelled out in our Charter for the benefit of us all and to protect us all from harm if we are to have a legal basis for a right to clean water. The right to clean

water, unifies and amplifies the voices of all citizens. The right to clean water is a home rule issue. Declaring the right to clean water, we the people of Brevard County can ensure legal accountability will be added to our State's water protection efforts. When Florida fails to protect our water and environment, it is up to local jurisdiction to step up and protect our communities. While we may have mastered the process of permitting, we have yet to ponder the process of preservation, protection enhancements and restoration with equal intensity. Please don't make the mistake that Indian preservist, Shri Paka Vala warned against when he said that Dharma lives in the hearts of public men. When it dies there, no constitution, no amendment can save it. With a right to clean water amendment, our grandchildren may one day reap the reward of the seeds that we sow. Once again, we may see our waters teeming with fish and wildlife, once again. A draft amendment has been provided to you in your packet, It is loaded with options, it can be considered and customized any way you see fit. As you review and discuss the proposed Charter Amendment for Brevard County, consider our lagoon and our waters, our Estuary. The right to clean water, (one sentence). Because our water should flow, exist in their natural form, be free of pollution and maintain a healthy ecosystem to provide a prosperous habitat for generations to come. Thank you.

Mike Haridopolos: Thank you sir. We will be taking that up the next meeting, we look forward to seeing you then. All right, Mr. Trettis, we have one more item, yours. It would be number seven I believe in our potential items. And if you could take that up, that would be great.

#### **F-7 (Repeal Article 8 School Board of Brevard County)**

Blaise Trettis: I have filed a proposal to repeal Article Eight, School Board of Brevard County in 8.1 election of school board members from the Brevard County Charter. This idea just came to me at the last meeting when Mr. Gougelman to my impression was expressing some doubt on sort of the lawfulness of Article Eight in the Brevard County Charter. So, I did some research after that, and what I found is that this became part of the Charter in 1998, when the voters voted for it by fifty eight percent, the single member election district by residents area. But, I looked at some statutes, and my position is that this Charter Amendment was contrary to law, both when it was adopted in 1998, and it is today contrary to law because the statutes have been renumbered over the years, but both in 1998 and in today the statutes say that single member voting districts for residents area by school board members can only be created by two ways: First of all the School Board can pass a resolution, and then it goes to the voters for a vote. Secondly, there is a petition process where I think it is like ten percent of the electorate can sign petitions and it goes to the voters. But there is not in Florida law, any ability to create single member school board district elections by Charter Amendment. I think it has been contrary to law all these years, and I guess fortunate that there haven't been any legal challenges, but I think that the problem with it still being in the Charter is that it really subjects our school board elections to legal challenges to probably a loosing candidate, or someone who really doesn't really like the winning candidate. That can be done, I believe it is called Petition for writ of quo warranto, is the technical term for the challenge. And I

think that elections in the School Board of Brevard County are really vulnerable to what could be and may be a successful legal challenge. I believe that this uncertainty, and I think likely contrary to law, Article Eight should be remedied by its repeal. It is very easy, if the School Board thinks otherwise and they want to get this into the Charter, all they have to do is vote for it, and it's on the ballot. The petition process is always very difficult, but all it takes is a School Board vote to put this on the ballot if they want to do that. But I think in the memo, the twenty-page memo that attorney Gougelman submitted addresses this in two different places, which I think I have included in my proposal, I think. Which is Mr. Gougelman which I think is also of the opinion that this was done contrary to Florida Statue when it was done. And then on a final note, I am personally in favor of district-wide election of School Board members which every elector through the County gets to vote on every School Board race. I personally don't know why anyone would oppose that because the voter gets to vote on every member of the School Board, and by State law every School Board member represents the entire district, not their residence area, that is in State law. So, if a candidate says well we want single member districts so we can focus on our schools, my schools. I have actually heard them call it. It is not their schools, they represent the entire district, and with this district wide School Board elections would do, would allow the voters to vote in every race, and really control the composition of the School Board. So that is why I am in favor of it personally. But that is beyond, aside the legal argument which was done contrary to law. That's all.

Mike Haridopolos: All right we will take that up in our next meeting. Thank you so much. Anybody else? All right we are now in G. Section G which is revision of future meeting schedule. Does everyone have their meeting schedules in front of them? Of course, today is the 24<sup>th</sup> of March. Our next scheduled meeting is on the 7<sup>th</sup> of April, and I think the question I have is when do we want to take up the actual final vote after the three hearings have been held? Do we want to do this on one day at the end of our schedule, or would we like to take it up the meeting following the three hearing dates? Mr. Trettis.

Blaise Trettis: My preference is to not wait until the end, but to take each one up as they come up when they are ready for a vote. And there is a reason why especially in the recall of school board election proposal, and that is I believe to try to get an Attorney General Opinion to weigh in on the matter, I think that needs to be done before that can be pursued. So that is like a real reason why it should be done in that case, and also putting them all at the end, I don't know what everyone's schedule would be, but maybe it would be in the Summer when everyone is on vacation, and I think a lot more people would be likely to miss one meeting at the end. So, I would prefer they are voted on as they are ready to be voted on after three public comments.

Vic Luebker: Mr. Chair, I agree. I think if we try to do it all in one big super vote, we may open up Pandora's box for all of the discussions to go around and around all over again as well.

Mike Haridopolos: Okay. Other opinions? Anyone have a counter opinion of that? All right, so with that said: let's just be clear on these things, for example on one of our items that has already had two meetings

Kendall Moore: I did just think of one. I don't have a counter to Mr. Trettis, but we do have two pending issues that are going to resolve how many votes it is going to take, which has to be resolved before you are going to vote on any issue, so we may get to that meeting after the third hearing before we fully resolve the eight versus ten, you know the two outstanding procedural issues that came up this morning. I am not opposed to what Mr. Trettis and Mr. Luebker have stated, but we certainly can't get there without resolving the other two procedural issues.

### **G.1-Revision of future meeting schedule**

Mike Haridopolos: And I couldn't agree more. Our next meeting is scheduled for the 7<sup>th</sup> of April. I would hope that our legal team would give us some information before that meeting. We have approximately two weeks before that, but I anticipate that coming before us, so with that said, again I am in no rush to vote. What we can do if you wish is maybe we schedule the meeting on the vote I should say, whether it be eight or ten on the 12<sup>th</sup> of May for our first item, or any items that are eligible on that date. Would that work for everyone? So, let's put that in, it's the 12<sup>th</sup> of May, we will vote. Of course, making sure we have our other issues kind of settled. So, we would have that vote on the 12<sup>th</sup> of May on the School Board issue, and technically if we are moving forward, there is a chance that the others could also be voted on that day if the things fall in line. Other thing I wanted to talk about is I know for a fact I will not be here on the 7<sup>th</sup> of April, and I will not be here on the 2<sup>nd</sup> or 30<sup>th</sup> of June. So, and it sounds like each of our votes might be important on a lot of these dates. So, one is letting that be known, I am happy to turn over the reigns as Chair to Mr. Moore, but if we want to adjust dates, I am also open to that, or add dates, whatever we would like to do. It is something maybe we start sending in dates that , our availability to our team this week, so we can find some dates that for sure work. So that we can have additional meetings, and if not, it might just mean we have a crowded schedule as we get into July and August. So, put those dates into the staff. We will see if we can't find dates that work for hopefully everyone because again, I think the votes will really matter. But I guess the first pending question is, I won't be here on the 7<sup>th</sup> of April. What is the will as far as having the vote should we get the information from Mr. Gougelman on the eight versus ten? I am not sure if other people are going to miss the meeting on the 7<sup>th</sup> of April either.

Dave Neuman: I would also have a conflict on the 7<sup>th</sup> and 8<sup>th</sup> of April.

Mike Haridopolos: Okay, so we are down to thirteen.

Blaise Trettis: Could we just do it on the 21<sup>st</sup>, the next meeting? April 21<sup>st</sup> instead of the 7<sup>th</sup>?

Mike Haridopolos: You mean the vote on the eight versus ten?

Blaise Trettis: Yeah., yes.

Mike Haridopolos: I think that works. Is everyone still good for the 21<sup>st</sup> of April so we can have the vote on that date? Plus, we will have plenty of information by that point as well. Do we want to have a meeting on the 7<sup>th</sup> of April, to get those meetings in place?

Blaise Trettis: No

Mike Haridopolos: Okay, lets cancel the 7<sup>th</sup> of April meeting then. And then as far as the 2<sup>nd</sup> and 30<sup>th</sup> of June, at this point, lets just put that in question, and the staff will get the rest of the information from the committee back, as far as their availability. I can literally say I am gone almost the entire month of June. So hopefully either late May, or early July might be a meeting date that works for you. We have a pretty big gap there between the 30<sup>th</sup> of June, and the 21<sup>st</sup> of July. But again, just send in dates the best you can. Obviously, some of these important votes you want to make sure we have everyone, or at least close to everyone for those bigger votes. All right, any other question on that scheduling issue?

### **G. 3 – Fiscal Analysis Direction**

Mike Haridopolos: All right, fiscal analysis direction. Do we have anything on that. Yes Jim?

Jim Liesenfelt: Yes, thanks Mr. Chair. As we have discussed before. The Charter requires a fiscal analysis of any amendments that are passed. (in audible) we could go out for procurement similar to the attorneys, or we can use our internal accounting, auditing contract with RSM, there fee is \$200-\$275 dollars per hour. We also have an auditing, external auditing contract with Cherry Baekert, there is no standing task order in there, and then we also have our financial advisor contract with PFM financial advisors, and their charge is \$175-\$200 dollars per hour for the task orders. So, we are looking for directions as how the board would like us to obtain somebody to conduct the financial analysis for you.

Mike Haridopolos: I put it at two points. Do we want to make that request once we actually think these, once they are actually voted on and passed, or do we want to get that fiscal analysis before we have our final vote? I mean it is an obvious answer, but I am opening it.

Cole Oliver: I mean I would prefer to know the fiscal impact of what we are voting on is before we vote on the final vote, but that is just my opinion.

Mike Haridopolos: I agree, and then the second part of course, is who would do the work? Anybody have a preference? You want to leave that to staff?

Gabriel Jenkins-Kiersten: I would defer to staff on that.

Mike Haridopolos: Okay let's defer to staff on that. Anyone have an objection on that? Whoever you all feel most comfortable with. Feel free to use.

### **G. 4- Motion to change Rule 17 “ten” to “eight**

Mike Haridopolos: We have temporarily passed, we have until the 21<sup>st</sup> of April, I guess it is next time the motion to change from ten to eight on rule 17.

### **H. 1- Motion to delete wording from Rule 16**

Also, we are going to, we have tabled the new business. Which is the motion to delete to delete Rule 16, and dealing “with at least one member appointed by each Commissioner present.” So, we will refer that to April 21<sup>st</sup> as well.

## **H. 2 - Motion for Commission attorney Paul Gougelman to seek Attorney General Opinion from Florida Attorney General Ashley Moody**

Mike Haridopolos: And I believe Mr. Trettis you had one more item on referring an item to our Attorney General Ashley Moody.

Blaise Trettis: I will not make that motion today.

Mike Haridopolos: Okay

### **I. Public Comment**

Mike Haridopolos: All right we have a couple of people who would like to make public comments. We will allocate like we have all day a couple of minutes each. We have first from Viera, Robert Burns. You are recognized for two minutes. Welcome Mr. Burns.

Robert Burns: Hi Mr. Chairman. I am sorry I am late, I had a few agenda items I wanted to address. But I was helping someone look for a chair so I was caught up. The first item I wanted to talk about is this full- time Commissioner. I don't think anyone running for office every ran and said; Hey I am going to work twenty hours. And I don't think any Commissioner that you would ask right now would say that they only work twenty hours. However, the Commissioner from District Two, made a change, or proposed a change that was passed to the public records. And the way that they calculate public records cost is based off of not forty hours per week, but twenty hours per week, which is essentially double the cost of public records request. Because that Commissioner at that time, argued that the position is a part time job. So that has, like I said increased the cost of public records by one hundred percent at least, because they also use their benefits as part of the calculations as well. I think that has led to further obstruction of our transparency for public records and it makes me want to bring forth a proposal that maybe that is something that can be addressed in the Charter. Instead of just board policy or administrative order, on the cost of public records. I am running out of time. The other things was, in regard to the recall election, we just had a long legislative session, and not one of our representatives from our Brevard delegation brought this up. I think they would have had the support had they brought it up. We do have a special session coming up, I believe or potentially for the homeowners insurance. I would solicit that our delegation bring forward that issue and then we won't even have to worry about it as far as the Charter is concerned. However, I think that what we are proposing at our Charter level is going to make the same mistake that we think that the State has made. There are several offices in Brevard County that cannot be recalled. Public Defender is one of them, State Attorney, Sheriff, Property Appraiser, Tax Collector. So, there is a lot of elected officials that cannot be recalled currently the way it sits. So instead of just saying we should only have school board members, we should just any elected official in Brevard County should be able to be recalled under the same guidance and statutes that we currently have for Commissioners and City Council. So that would be how I would like to see it go forward, instead of just saying school board, anybody.

Mike Haridopolos: Great. And as you know the next meeting which is now the 21<sup>st</sup> of April we invite you to testify again, and that would be great.



Robert Burns: Sure, thank you.

Mike Haridopolos: Thank you so much. All right we have Katy Delany also on Public Comments. Welcome back.

Katie Delaney: I just wanted to comment on some of the things that were spoken about today. I have personally been to every school board meeting and every workshop since March of last year. So, I was right there in all the mess that was spoken about. Never once did I feel in jeopardy of my safety. But what I did feel was that we were being totally disrespected as tax payers and as parents. These are our children, they are not wards' of the State, they are not wards' of the school and the thing that I love about this meeting and you people sitting up here is that I get to address all of you and there is communication between us. And that is not happening at the School Board. Communication has halted. The other thing was the cost of the special session, or special election. The school district, like I mentioned has a consolidated debt loan right now that is going to total five hundred and twelve million dollars from the past two decades, I was told it was from like the 2008 era and then added funds going forward. It was all consolidated into this mega loan. One hundred forty-four million of that is going to be interest. So, I understand where you are coming from about asking for two hundred and fifty thousand dollars, but these people are mismanaging our tax dollars by the hundreds of millions, hundreds of millions. And what are my children's mental health worth? When we have boys going into girls bathrooms. And I am not talking about transgender children. I am talking about boys in boy clothing going into girls restrooms, and it is happening. You know, what about those girls' safety? What about the male teacher that is in the restroom and a female walks in, and you know sees everything? What about the safety for that teacher? This is so much bigger than masks. Masks are irrelevant at this point. It is everything else. I just implore all of you to please look beyond what we see in the media. Please investigate some of this stuff for yourselves. I would be happy to speak to any of you about my experiences that I have seen.

Mike Haridopolos: Thank you Ms. Delaney.

Katie Delaney: Thank you

Mike Haridopolos: Are there any questions for Ms. Delaney? Thanks again for your time, we appreciate you coming forward. All right we are at the end of the public comments. Are there any other items someone on the board would like to comment on? The only thing I would add and to build on what Ms. Delaney said. As you know I served on the legislature for a long time, and if we had the time, we always took the time, or even when we didn't like their opinion. I remember there was a school, we were at a meeting at the King Center on Education. My wife was worried about my safety. I don't know if anyone else was, but that is what you do as an elected official. You take it because you are, I hope because I have not been to these meetings, and I don't pretend to know the answer, but rule one in Florida politics is at least is: We are the Sunshine State, and you should be accessible, and its one of the things that a lot of us who were in office take pride with. So, I hope that, I know there is a lot of emotional things going on right now for obvious reasons, but one of the things that really stands out and it is a very good election policy by the way, is be accessible and take the slings and arrows because just like there is people for you, there is people against you. That is part of the business of being in politics, so hopefully that will start to change as we get out of this difficult time with Covid etc., but it is an interesting time to say the least. I really appreciate everyone's time and patience today. I think we made a lot of ground. And I think with the good work of our staff, and Mr. Gougelman we can make sure all of these technical

issues get taken care of, so however we choose to vote it is an informed decision and it is one that when the voters have the final say that they will feel confident that we did our homework in this process.

**J. Adjournment**

Mike Haridopolos: So, with no other business we will have our Vice Chair, Mr. Moore rise, and we are adjourned. 3:58 pm.

# Do NOT add a school board recall measure to our Brevard County Charter

- They are unnecessary. We already have a mechanism in place for removing School Board members who are guilty of malfeasance. The Governor can remove them. Any other reason for a recall is partisan political retribution.
- Recalls waste resources. Recalls cost \$\$\$ that comes out of our county budget.
- They weaken our democracy. School board members are elected officials. Voters decide who should have these roles for 4 years. Recalls undo voters actions at the ballot box.
- They are disruptive. Instead of doing the job they were elected to do, the board member must campaign for their job...again. Elections are every 4 years for a reason.
- They usually fail. 89% of recall measures never make the ballot. A further 9.3% are defeated at the ballot box. Only 5.5% of recall attempts are successful.

*Do we really want to create a never ending, tax Dollar wasting cycle where elected officials never truly win their seats and are always at risk of political retribution from the other side?*

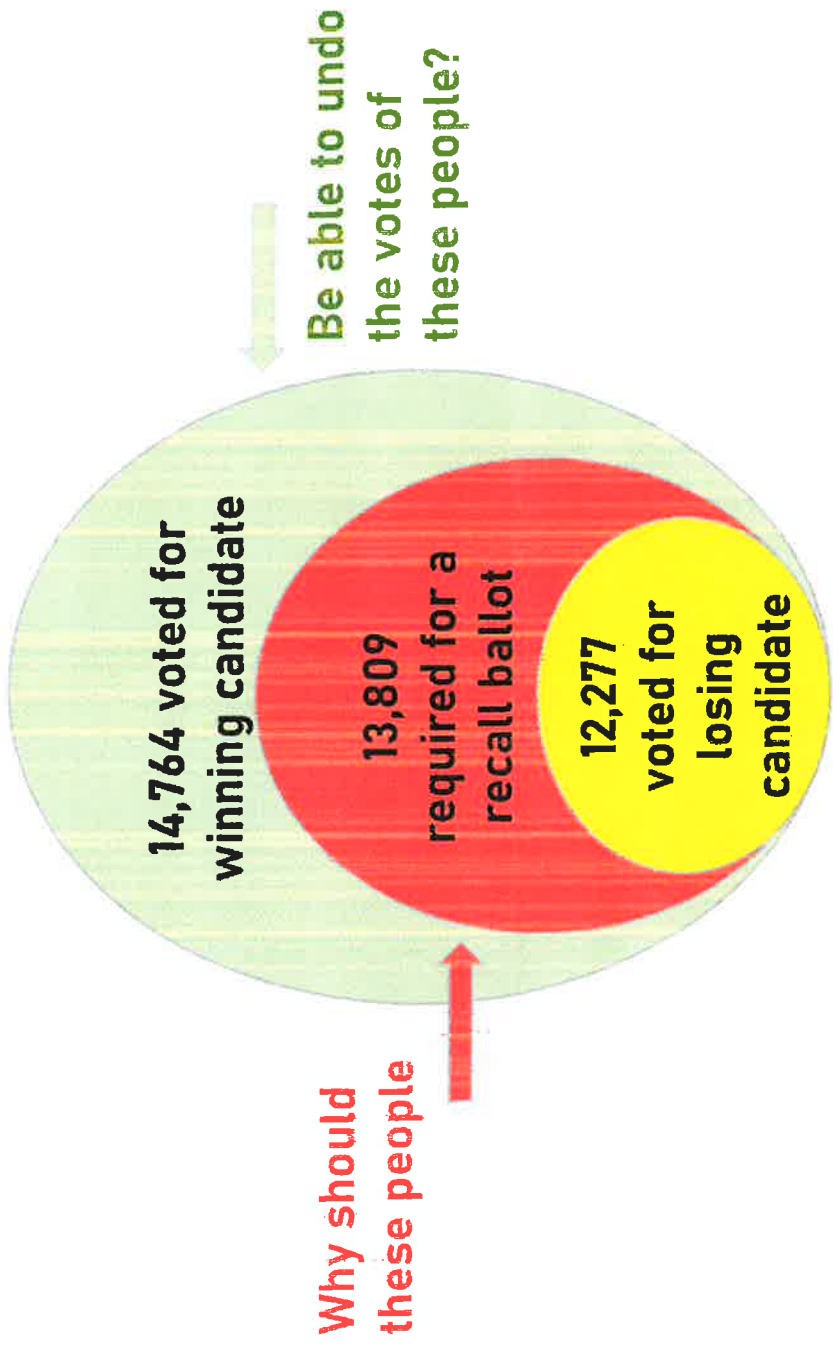
*School Board recalls are bad for Brevard!*

*Be involved in the process be heard!*

*"People could depend on it because they voted for it"*

*"People of Brevard county that choose to vote"*

*v.t not the voters"*



March 24 statement for Charter Review Committee  
Pamela Castellana  
321-536-6919  
4735 Willow Bend Drive  
Melbourne, FL 32935

I was recently accused of being "rude" to the members of this board in February. What's rude is intentionally misleading the public, which Mr. Trettis appears to be doing. His excuse for ignoring all precedent state statute is as follows:

"The school board's face mask requirement was voided only because Governor Ron DeSantis and the Florida Legislature passed a bill in special session in November 2021 which prohibits a district school board from requiring a student to wear a face mask. If Governor DeSantis were not the Governor of Florida, then Brevard County public school students could have had to wear face masks in school indefinitely as students are now ordered to do in states like California and New York"

At the February meeting I gave Mr. Trettis the benefit of the doubt that he was simply ignorant of the facts, and had not taken the time to glance at the minutes of the school board meetings. So I presented those facts as follows.

The mask policy as approved by the school board last year was never indefinite. On October 4 the Brevard School Board set metrics in place, giving the superintendent the power to rescind the policy when Brevard County's positive case rate reached 50 out of 100,000 cases. That allowance was approved by three of the board members, Misty Belford, Cheryl McDougal and Jennifer Jenkins. That threshold was reached two weeks later and the opt out was added well in advance of Desantis' overreach.

He has neither withdrawn nor edited his request and his rationale for it-I can only assume malicious intent rather than ignorance at this point.

To say this is not politically motivated is demonstrably untrue. On June 30, 2020 County Commissioner Bryan Lober asked for a mask mandate for our entire county, yet I don't see any attacks on the county commission's ability to serve their term.

And finally, even Mr. Luebker agrees with me, miraculously enough. He recently posted on social media under one of his aliases that "we don't recall people based on just their party or a vote. It takes malfeasance. It's a very high bar. Not just passing a local ordinance...recall is not a political club based on party politics or a vote you don't agree with, that's what elections are for" I've provided a screenshot of that post as well as evidence that Mr. Luebker is, indeed the alias involved.

Yes, a recall is and should be a high bar. When Mrs. Jenkins won her election, her stance on the need for a mask mandate as the only life saving strategy available to our school board was widely known. She had stated in in public debates, interviews with the newspaper and even conservative radio talk show host, Bill Mick. And Mrs. Jenkins won that election with 54.6% of the vote to her opponent's 45.4%. THAT was the "recall" that mattered. I served as her campaign manager and even a state representative's wife told our volunteer that Jennifer's mask stance was why she received her vote.

Additionally Mr. Trettis and Mr. White misstated the facts on recall in Florida and owe the citizen they berated at the time an apology. No, our governor cannot be recalled.

If our public defender believes that ignoring all state statute, setting a policy for one office and none others, is a good idea, lord have mercy on the people who need his services in court.

Mic

No worries I'm doing a story on it. Vluebker@gmail.com

8:50



Mic Brown



Mic Brown

Mar 4 · 🌐



So, we don't recall people based on just their party or a vote. It takes malfeasance. It's a very high bar. Not just passing a local ordinance on panhandling or line item budgets. It's about false police reports related to your public office or using taxpayer money for purchasing items for your personal use. Recall is not a political club based on party politics or a vote you don't agree with, that's what elections are for!

6:17

📶 49%

malfeasance



## Dictionary

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Search for a word



mal·fea·sance

/ˌmalfɛzəns/

noun **LAW**

wrongdoing, especially by a public official.



Home



Friends



Groups



Gaming



Notifications



Menu

## Charter Commission Speech

Good Afternoon. My name is Amy Kneessy and I was the School Board District 3 Representative in Brevard from 2004-2016. I am here today advocating for adding school board member recall to our county charter because I think I can offer a very unique perspective. In less than five years I have gone from enjoying the life of a private citizen to leading the fight against the Brevard County School Board in a First Amendment lawsuit. My being here today has nothing to do with one specific board member but all the school board members. Let me describe to you how very much things have changed since I was on the Board:

First, at the beginning of the every school board meeting and prior to public comment the chairman reads a statement that all audience members are subject to arrest, up to 6 months in jail, and a \$5000 fine if the chairman deems them out of order and has them removed

Second, all comments must be addressed to and only the chairman. You may not address, state the name or even look at any other school board member or you will be immediately stopped from speaking. The comments can not be, and I quote “ personally directed, abusive, obscene, or irrelevant’ . The chairman is the final judge. To give you an example of what constitutes a violation, the chairman found the words “liberal left” offensive and would not allow the speaker to continue.

The audience also has special rules. They are not allowed to make any noise or sound. If they do, the chair will threaten to clear the board room. Not too long ago, the chairman cleared the boardroom after two audience members were deemed too loud. The board returned to their meeting but would not allow any of the public back in to watch.



In order to discourage public speakers, the amount of time given to speakers is limited when more people sign up to speak: if 10 or less then speakers get three minutes, 11-20 then speakers only get two minutes and if more than 20 people sign up, everyone's time is limited to one minute. If you want to address the board on a non-agenda item, you are automatically moved to the end of the agenda, only having one minute to speak. The board initially went so far as to turn the cameras off so that people watching by television could not see this part of the meeting.

The last issue is access to the board room. When the regular board room is full, the doors are locked and people are forced to wait outside. There is a large room that could be opened at the back of the board room to allow more access which was done many times in years past but now that is never offered.

Board members as a whole in Brevard have made it very clear that they do not want the public involved or participating in their meetings. Some of the comments made by Board members at meetings when discussing the policy include:

“ I wish we didn't have to have any public comment at our meetings”

“I don't have time to do my job and listen to the public”

“ These meetings are for us not the public”

And my personal favorite

“If someone wants to talk to me they should call, email, or set up an appointment”

We can't wait four years to make a change in a school board member anymore. The recall needs to be added to the county charter. The Brevard County School Board is accountable to the public, and if they choose not to listen and make themselves available to the public, the public needs to have an appropriate remedy it can seek.