

**CHARTER REVIEW COMMISSION
MINUTES
Monday, June 1, 1998
Town Hall, Orange Park**

The Charter Review Commission (the CRC) met on Monday, June 1, 1998, 6:30 p.m. Town Hall, Orange Park. Those in attendance are listed on the attached sign-in log. Those not in attendance were: Diane Melton and Nancy Keating.

1. Minutes of the May 18, 1998 meeting were unanimously approved with the correction on page 11, paragraph 10, (the next meetings should be June 1, 1998, **June 15, 1998**, and July 6, 1998).
2. The CRC unanimously approved payment for advertising the first public hearing regarding the Commission Auditor to the Clay Today in the amount of \$120.00 and the Clay County Leader in the amount of \$56.00.

Chairman McDermaid OPENED THE PUBLIC HEARING

Mr. McDermaid explained to the public the issues being proposed for referendum at the November election: **(1) RECALL**, as a new section in Article III, immediately following Section 3.1 (which states: "Each of the constitutional offices described in Section 3.1 of this Article shall be subject to recall in the same manner, under the same procedures, and for the same grounds as are provided by general law for the members of the Board of County Commissioners (BCC), **(2) SEPARATION OF THE CLERK'S DUTIES**, a proposal amending Section 3.1 of the charter to limit the Clerk's duties to Clerk of the Circuit Court and recorder, and to accept Alternative A which amend Paragraph (1) of subsection A of Section 2.3 of Article II of the Charter to add a new subparagraph immediately following subparagraph (e) thereof, to be designated subparagraph (f), and to read in its entirety as follows: "The County Manager shall be the Ex-Officio Clerk of the Board of County Commissioners, auditor, and custodian of all county funds of the County within the meaning of Article VIII, Section 1(d), Constitution of the State of Florida, and shall exercise all powers and perform all duties and functions as may be provided by law with respect thereto", **(3) INITIATIVE PETITIONS**, a proposal to revise the initiative process for both Charter amendments and ordinances so as to (1) change the signature requirements from ten percent of the electors qualified to vote in the last general election to ten percent of the electors who cast ballots in the last general election; (2) delete the requirement that the qualified elector signatures must be gathered in such a manner so that not less than three (3) of the five (5) County Commission election districts contribute at least ten percent (10%) of their

Charter Review Commission Minutes

June 1, 1998

page two of nine

qualified electors to the ten percent (10%) countywide total; and (3) increase the period of time for the initiative petition drive from 120 days to 180 days.

Regarding the Separation of the Clerk's duties, Mr. McDermaid informed the public that should this measure pass by the voters, there was concern that the BCC may want to hire an independent auditor for the County (Commissioner Auditor). At the meeting of May 18, 1998, the CRC recommended that County Attorney Mark Scruby draft a separate measure proposing the creation of an internal auditor position, appointed by and reporting directly to the BCC, with powers and duties based upon those set forth in the Charters of Broward and Osceola counties. Tim Collins, State Attorneys Office, addressed the CRC at this meeting, expressing his opinions that a Commission Auditor would be beneficial if the separation of the Clerk's duties were to pass in November. Mr. McDermaid informed the public that the grand jury report was available to the public and passed out the report to the CRC for their information. Further, Mr. McDermaid explained that coincidentally, the grand jury recommendations were similar to those the CRC was proposing for the November election.

Mr. McDermaid explained that the purpose of this hearing was to receive input from the public regarding the Commission Auditor measure and review and discuss the draft proposal Mr. Scruby provided to the CRC (copy attached for the record), and is required by the Charter to hold three public hearings. The purpose of the Commission Auditor (internal auditor) is to provide within the Charter, for the establishment of the Commission Auditor who shall be appointed by and serve at the pleasure of the Board of County Commissioners, be responsible for the maintenance of the internal controls employed to monitor and document financial, performance, efficiency and compliance matters related to all components and programs of County government directly under the BCC and for interfacing with the external auditors, shall have certain powers and authority regarding the same, and shall appoint Assistant Commission Auditors.

Mr. McDermaid suggested that the CRC review the proposed amendment section by section and discuss accordingly. One portion of the draft will include bold type verbiage and the other without. Mr. Scruby recommended the bolded areas be discussed thoroughly.

The draft reads, and discussion will follow thereof:

Charter amendment to accomplish the purpose

Effective **October 1, 1999**, Section 2.3 of Article II of the Clay County Home Rule Charter shall be amended to add a new subsection immediately following Subsection C thereof, to be designated Subsection D, and to read in its entirety as follows:

D. Commission Auditor

Charter Review Commission Minutes

June 1, 1998

page three of nine

(1) The Commission Auditor shall be appointed by and may be terminated with or without cause by a majority of the membership of the Board of County Commissioners. The Commission Auditor shall be responsible for the maintenance of the internal controls employed to monitor and document financial, performance, efficiency and compliance matters related to all components and programs of County government directly under the Board of County Commissioners, and for interfacing with all external auditors engaged by the Board of County Commissioners.

(2) At the time of his or her appointment, and throughout his or her tenure, the Commission Auditor shall be a certified public accountant holding an active license to practice public accountancy in the State of Florida, or shall be qualified by education or experience in governmental accounting, internal auditing practices and fiscal controls, and shall meet such other qualifications as may be established by the Board of County Commissioners. **The Commission Auditor shall reside within the County during the term of appointment.**

(3) To the degree necessary to fulfill his or her responsibilities under Paragraph (1), the Commission Auditor:

(a) Shall have the power and authority to conduct financial and compliance, economy and efficiency and performance and post audits of all components and programs of County government directly under the Board of County Commissioners.

(b) Shall have free and unrestricted access to all of the employees, officials, records, and reports of the components and programs of County government directly under the Board of County Commissioners, and, where appropriate, may require all branches, departments, and officials of the components and programs of County government directly under the Board of County Commissioners to provide oral and written reports and to produce documents, files and other records.

(4) Assistant Commission Auditors shall be appointed by and be responsible to the Commission Auditor. The appointment of

Charter Review Commission Minutes
June 1, 1998
page four of nine

any Assistant Commission Auditor shall be subject to the appropriation of funds therefor by the Board of County Commissioners. The Commission Auditor shall have the sole authority to suspend or terminate any Assistant Commission Auditor with or without cause.

Marvin Whilite inquired if the measure for the separation of the Clerk's duties is voted against, would the measure for the Commission Auditor be eliminated. Chairman McDermid stated that as it stands after our last meeting, two separate measures were discussed. The BCC may want the Commission Auditor function as a separate amendment, in that the only internal auditor function at this time is the Clerk's auditor and the yearly audit.

Marvin Whilite expressed his opinion that if the current Clerk continues to function as he is now, he would have the same responsibilities, including the internal auditor function. There will be a duplication here if the Commission Auditor measure is passed and the separation of the Clerk's duties does not. This would not be an acceptable arrangement. Chairman McDermid agreed that this situation would not be very attractive.

Bill Jameson inquired if the BCC would want to be responsible for this Commission Auditor position if the voters approved this measure and the separation of the Clerk's duties failed.

Discussion concerning the verbiage of D., (1), "**The Commission Auditor shall be appointed by**" and changing it to say, "**The Commission Auditor may be appointed by**". Chairman McDermid suggested that it may be important for the measures to be on the ballot separately. Further, the CRC should consider the verbiage of the draft Mr. Scruby presented to remain as is if they are going to follow the samples of other counties who have an auditor position.

Jim Schneider stated his opinion that if the separation of the Clerk's duties does not pass by the voters in Clay County the finances of the County is still the responsibility of the BCC and perhaps the Commissioner Auditor position would be a good idea. There would be someone looking over the Clerk's shoulder if he remains responsible for the County's funds.

Bill Jameson informed the CRC that elected officials can not be audited.

Chairman McDermid explained that more information was necessary to make a decision and suggested that County Attorney Mark Scruby attend the next meeting to answer questions and give the CRC a legal definition of this matter.

Marvin Whilite stated his opinion that the CRC should recommend the measure for Commission Auditor only apply if the separation of the Clerk's duties is approved by the voters.

Charter Review Commission Minutes

June 1, 1998

page five of nine

Tim Collins explained to the CRC that the Commissioner Auditor **could not review** the Constitutional Officers or the Clerk's finances. The Commissioner Auditor could only audit the BCC's funds if the measure is passed. If the separation of the Clerk's duties is approved and the Commission Auditor measure is approved, the auditor could not audit the Clerk. At some point in time there could be a challenge as to whether or not the measure for the Commission Auditor would hold merit if the separation of the Clerk's duties does not pass.

Regarding D., (2), Danny Hamilton inquired about the salary of the Commission Auditor, if this individual is paid \$10,000 a year, then the verbiage should remain the same, however; if this individual is paid a substantial salary, the verbiage should require a Certified Public Accountant.

Marvin Whilhite stated that the verbiage in this section would allow room to consider hiring an individual at a lower salary.

McDermaid suggested that Human Resource Coordinator Bill Green and County Manager Bob Wilson be invited to attend the next meeting to help the CRC understand the importance of the verbiage in this proposal and answer questions. This section could be reviewed in two ways: 1) does verbiage give the County an opportunity to hire someone who would be willing to work for less, or 2) flexibility, in that an individual may qualify from a different walk of life.

Danny Hamilton expressed his opinion that if the County wants to watch their pocket book, then the individual should be required to have a CPA license.

Max Williams stated that changing the verbiage may ensure that this individual is qualified.

Ken Ackis stated his opinion that it was not necessary to write a job description for the Commissioner Auditor and the verbiage appears to be open-ended enough in that it gives individuals with related job experience, whether they be CPA's, CIA's or otherwise, an opportunity to meet qualifications that may satisfy the BCC.

Chairman McDermaid informed the CRC that the current pre-auditor in the Clerk's office receives a salary of \$39,400.00 a year. This position is full-time and requires a college degree in accounting, or an equivalence of a minimum of five years in county experience or a government agency.

Dr. Clive Rayner inquired as to how much the County spent for an external auditor per year.

Jim Schneider stated that he believed the County expended approximately \$70,000.00 per year for external auditors.

Charter Review Commission Minutes

June 1, 1998

page six of nine

Chairman McDermaid informed the CRC that with the separation of the Clerk's duties, several positions related to finance will be transferred to the County Manager, among those, the internal auditor.

Danny Hamilton explained that previously he had understood that the current Clerk's salary was paid from two separate funds and after research in the Florida Statutes, has learned that the Clerk will receive the same salary even if the separation occurs.

Dr. Clive Rayner stated that it was his understanding if the separation of the Clerk occurs, the current Clerk/Comptroller will receive less salary because his duties are no longer the same and the new Comptroller (Finance Officer) will absorb those duties. The new Clerk will receive a salary based on his duties.

Chairman McDermaid informed the CRC that regardless of the outcome of the election, the Clerk of the Court will receive the same salary.

Tigger Megonegal stated her opinion that she would like to see the Commission Auditor's department grow and not be limited to one individual. Further, since Ms. Megonegal did not attend the last meeting needed an explanation of how the CRC moved in this direction.

Max Williams explained to Ms. Megonegal that originally the CRC had discussed the auditor and comptroller reporting to only the County Manager. Now, the Commission Auditor will have to report to the BCC and the Comptroller to the County Manager. There are no changes in what was originally agreed upon concerning the separation of the Clerk's duties. Having the Commission Auditor reporting to the BCC will give more control of the finances for the County. The Grand Jury report indicated that there was not enough checks and balances and to improve them, we are moving the Commission Auditor from the County Manager and having that individual reporting to the BCC. If we place the Auditor and the Comptroller under the

County Manager it will be no different than putting both positions under the Clerk where the same problems could occur as in the Clerk's office.

Dr. Clive Rayner stated that the Commission Auditor position would not be a new funding source in that this position is already encompassed in the Clerk's office. The separation of the Clerk's duties would be transferred to the County Manager along with other positions discussed previously.

Bill Jameson inquired if the Commission Auditor be on the ballot.

Charter Review Commission Minutes

June 1, 1998

page seven of nine

Chairman McDermaid explained that the CRC was not at the point to determine what would be placed on the ballot, however, when the decision is made, the Commission Auditor measure would appear on the ballot similar to what has been drafted by County Attorney Mark Scruby, but amended somewhat to follow the restrictions and guidelines required by the state.

Regarding the discussion of the language in the proposal and Danny Hamilton's concern that a CPA should be hired for the Commissioner Auditor's position, Max Williams expressed his opinion that most businesses do have alternatives or options for individuals applying for positions if they do not have a degree. Experience in the related field may be acceptable and could be considered accordingly. The verbiage concerning the qualifications of the Commissioner Auditor appears to be simply covering all aspects of an applicants qualifications.

Mark Taylor stated his opinion that the second portion of D., Commission Auditor, is vague in that an individual may not qualify for the position but could make a good argument that they were qualified based on experience. If a CPA is not specified, someone could be placed in this who is not qualified.

Max Williams stated that perhaps this section is too vague and should be eliminated.

Chairman McDermaid stated that he did not believe that Mr. Scruby intended for this section to insinuate that an individual with less qualifications be hired for the Commission Auditor position, but to allow some flexibility in screening applicants, in that some of them may have substantial experience in the accounting field, but does not have CPA certification. Further, Mr. McDermaid suggested that Mr. Scruby attend the next meeting to answer questions.

Regarding the bold print on page 2 of 3, **the Commission Auditor shall reside within the county during the term of appointment**, the CRC had a brief discussion thereof.

Jim Schneider inquired why this statement was included in the amendment.

Chairman McDermaid explained that this statement was deliberately included for discussion among the CRC to determine if this issue was important and if it would make a difference.

Ken Ackis stated his opinion that it should not make any difference if the Commissioner Auditor resided in Clay County. The CRC appears to be making too many restrictions on this individual.

Charter Review Commission Minutes
June 1, 1998
page eight of nine

Max Williams stated his opinion that if it is required to live in the County, it should be consistent with what is already stated in the Charter concerning other individuals. Further, believes that this may be a view point on the matter and this individual should have a right to live where they wanted to.

Ken Ackis made a motion to delete D. Commission Auditor, (3), The Commission Auditor shall reside within the County during the term of appointment. Seconded by Paul Hagen. After further discussion, Mr. Ackis rescinded his motion for the purpose to continue the discussion at the next meeting.

Regarding Sections 3(a) and 3(b), Chairman McDermaid explained that these sections provide the written authority of the Commission Auditor.

Regarding Section (4), page 3 of 3 (bolded), this section appears to be consistent with the Charter regarding the County Manager and County Attorney.

Public Comments:

Harold Rymer stated his opinion that the CRC should be more concerned with the importance of improving the Charter and not micro managing the County.

Tim Collins, States Attorney Director thanked the CRC for their hard work and expressed the importance of a Commission Auditor. The Commission Auditor position may incur cost to the County. The BCC will have to answer to the citizens of the County who elected them. If they can justify it, then they deserve to be re-elected. If they can't, they deserve to not be elected. The BCC is responsible for raising taxes and are not always for the other matters. One of the issues addressed in the grand jury report is that the BCC has to answer for the tax rates, how it is budgeted and how it is spent. So, my guess is that ultimately the Commissioner Auditor will cost the County more money. Mr. Rymer stated that the CRC needs to be sure their job is done right. The thing that concerns me in looking at some of these issues and why I believe the Commission Auditor is so important, is that right or wrong, there were individuals who knew about the Clerk's employee accounts that received so much publicity. The problem was, that those individuals answered to the Clerk who had the account. This is why it is so important to have a Commission Auditor, in that if this individual finds something improper with the County's business, they would answer to the BCC and not the County Manager who runs the County. If you have two people answering to the BCC, the County Manager and the County Auditor, there is a much better chance that the County's business will be operated properly. Regarding the salary of the Clerk, Mr. Collins explained to the CRC that the Clerk will be paid the same amount of money if the separation of the Clerk's duties is passed by the voters. The Clerk's salary comes from County government one way or another. It may come from the Clerk's fee side or from the Comptroller's side, but regardless, the County is ultimately the one who pays his

Charter Review Commission Minutes
June 1, 1998
page nine of nine

salary. If the Clerk is a fee officer, then it is the fees that pays his salary and what is not used goes back to the BCC. If he is a budget officer, then the fees collected goes directly to the BCC. So one way or another the County is paying his salary. The Clerk will receive the same salary even if the duties is less. The County Manager will receive the same salary and his duties will be more.

Max Williams stated his opinion that the CRC should be concerned with what is best for the County instead of micro managing the budget. Further, expressed his appreciation to Tim Collins for bringing the issue of the Commissioner Auditor to the CRC's attention in a timely manner.

PUBLIC HEARING CLOSED

Brief discussion regarding public information, Chairman McDermaid explained to the Commission that it was important for the CRC to not advocate to the voters anything political, in that the function of the CRC is not to say as a group to promote any of the issues.

The second public hearing concerning the Commissioner Auditor will be held MONDAY, JUNE 15, 1998, 6:30 p.m., 4th floor of the Administration Building, Green Cove Springs.

Max Williams stated that the CRC should discuss the order of importance in which the measures should be placed on the ballot.

Danny Hamilton stated they should be placed on the ballot in the same order in which they appear in the Charter.

There being no further business, the meeting adjourned at 7:50 p.m.

Steven W. McDermaid, Chairman

Ann Mitchell, Recording Secretary