

**CHARTER REVIEW COMMISSION
MINUTES
Monday, June 15, 1998
Green Cove Springs, Admin Bldg.**

The 1997/98 Clay County Charter Review Commission (the CRC) met on Monday, June 15, 1998, 6:30 p.m., 4th floor, Clay County Administration Building, Green Cove Springs, Florida. Those in attendance are listed on the attached sign-in log. Those not in attendance were: Diane Melton, Jim Schneider, Max Williams and Ken Ackis.

1. Minutes of the June 1, 1998, meeting were unanimously approved with a correction on page 6, paragraph 5, the correction to read: Tigger Megonegal stated her opinion that she would not like to see the Commission Auditor's department grow and it should be limited to the Commission Auditor and Assistant Commission Auditor.
2. The CRC unanimously approved payment for advertising the second public hearing regarding the Commission Auditor to the Clay County Leader in the amount of \$68.00 and the first public hearing to the Florida Times Union, in the amount of \$89.37.

Chairman McDermaid stated that the third, and last, public hearing regarding the Commission Auditor will be held in Keystone Heights Town Hall, 7:00 p.m., Monday, June 29, 1998.

Discussion ensued concerning the presentation of the resolution for the proposed amendments to the Charter and measures to be presented to the Board of County Commissioners (BCC). BCC meeting dates for the month of July are the 14th and 28th. Chairman McDermaid stated that the CRC should focus completing their work and presenting it to the BCC at the July 14th meeting.

PUBLIC HEARING OPENED

Chairman McDermaid explained to the public that three (3) issues have previously been approved by the CRC to present to the BCC for the referendum at the November general election. They are: 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 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", 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 amends 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

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law with respect thereto", and 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 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.

Currently, the CRC is debating the issue of including a Commission Auditor position in the Charter, and this hearing is the second of the three required.

County Manager Bob Wilson and Human Resource Director/County Coordinator Bill Green were introduced and were present to answer questions for the CRC.

Committee discussion ensued concerning the order in which the CRC measures should appear on the ballot.

Danny Hamilton stated his opinion that all of the measures should appear in the same sequence as the Charter presents them.

Chairman McDermaid stated that the separation of the Clerk's duties was an important issue for the CRC and in discussion, some members had suggested this measure to be first on the ballot so the voters would be sure to read it first.

County Attorney Mark Scruby informed the CRC that there will be a dozen measures placed on the ballot from the Florida Constitution Revision Commission, who forwarded them to the Secretary of the State and their content will be lengthy. The BCC is anticipating a referendum for the sales tax extension. Mr. Scruby stated his opinion that most of the voters in Clay County will probably vote in the primary election that concerns candidate slates, but many may not vote in the general election. There will be so many measures for the voters to review that some of the issues may not be read.

Danny Hamilton stated his opinion that those measures concerning Charter amendments were important enough that there should be a good turn out of voters at the elections and believes that people will take time to review them.

O'Dann Richardson inquired where the measures presented by the State would be placed on the ballot.

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Chairman McDermaid informed the CRC that Barbara Kirkman, Supervisor of Elections will publish all of the measures to be presented on the ballot in the local newspaper before the election so the voters in Clay County will have prior knowledge of the ballots. Ms. Kirkman will have to inform the CRC where the Charter amendments will be placed on the ballot.

Marvin Whilhite stated that the separation of the Clerk's duties and the Commission Auditor position should be written to be contingent each upon the other.

Human Resources Director/County Coordinator Bill Green informed the CRC that he would get more information from Barbara Kirkman concerning the placement of the CRC measures on the ballot.

Public Input on the placement of ballot measures:

Harold Rymer stated that he had been a poll worker several times through the years and it is his opinion that everyone who can vote does not register. Those who are registered do not always vote. Those who do vote will not vote on every issue. They will vote only on those measures they are interested in.

Chairman McDermaid suggested that the issue of the placement of measures on the ballot be tabled until the next meeting.

Discussion ensued concerning Draft 1-D of the proposed CRC resolution establishing the proposed Charter amendments.

County Attorney Mark Scruby stated that the CRC has acted on the first three measures and has approved the form of the questions and the title for the ballot that he had drafted. After the suggestion of linking the Commission Auditor and the Separation of the Clerk's duties on the ballot, Mr. Scruby informed the CRC that he had made some small changes to the titles in order to create the linkage of the two by examining the verbiage and literally counting the words and numbers as whole words, so there would not be an opportunity for anyone to question them. The changes do not affect the meaning of the measures, but brings them under the necessary limit of the number of words.

On the question of the arrangement, the separation of the Clerk's duties is first, Commission Auditor is second, Recall is third, and the fourth and fifth measures are the Initiative Petitions.

Regarding the linkage of measure one and two, there was a great deal of discussion on this subject at the last meeting, as well as confusion. Mr. Scruby stated his opinion that he would like for the CRC to consider linking the two. Since the CRC is suggesting the separation of the Clerk's duties, perhaps it would be meaningful to link the Commission Auditor measure to the

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separation of the duties, in that if the separation does not pass then the Commission Auditor does not pass. For some, it may make a lot of sense to link the success of the Commission Auditor measure to the success of the separation of the Clerk's duties, however, the converse may not hold true in that the public may be satisfied to split the Clerk's duties, but may not want to create the Commissioner Auditor position at the same time. You may not want the linkage flowing in this direction. Whereas, if the Commissioner Auditor measure was passed and not the separation of the Clerk's duties, the County would be saddled with the Commission Auditor under the BCC and an Internal Auditor at the Clerk's office. This could be an undesirable situation for the County to be in.

Further, Mr. Scruby explained that the draft he is presenting (Draft 1-D), does not separate the two in this manner. This draft links them in both directions (i.e., the success of one depends on the success of the other, and vice a versa). This could be changed to say that as for the first measure, there would be no linkage to referendum #2. It will stand or fall on its own and if it is passed, it would depend on nothing else for it to take affect. The second measure would stay the way it is, because it would only become effective if the Clerk's duties passes. The BCC had a lot of discussion on this issue and the consensus vote was kind of confusing, and I believe that what the Board meant was to have the linkage flowing in one direction, but not in the other.

Regarding residency of the Commission Auditor, Mr. Scruby stated that the CRC must determine if they would like for this section to be stricken from the draft and the only reason it was included in the draft was to follow the same guidelines as the other Board appointed officials in the Charter.

Chairman McDermaid stated that in Draft 1-D, page two and page four shows that the linkage works in both ways, contingent upon each other. Up to this point, the CRC has assumed that only the Commission Auditor would be contingent upon the Separation of the Clerk's duties.

Discussion concerning this issue:

Chairman McDermaid stated that on page two, (d), (Ballot Title) - CHARTER AMENDMENT REFERENDUM NO. 1: TRANSFER OF CERTAIN DUTIES FROM CLERK TO COUNTY MANAGER, **and conditioned upon the approval of Charter Amendment Referendum No. 2;** and on page four (c), (Ballot Title) - CHARTER AMENDMENT REFERENDUM NO. 2: ESTABLISHMENT OF COMMISSION AUDITOR POSITION, QUALIFICATIONS, POWERS AND DUTIES, Effective October 1, 1999, **and conditioned upon the approval of Charter Amendment Referendum No. 1,** this is the linkage to one. This is what Mr. Scruby has described to the CRC.

Further, Chairman McDermaid explained to the CRC that Mr. Scruby had suggested that on page two, strike out the words **(and conditioned upon the approval of Charter Amendment**

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Referendum No. 2) and at the top of the page striking the verbiage of Section 1 (a), leaving off everything after (c) hereof, in the last sentence, (and a referendum whether the Charter should be amend as set forth in Section 2 hereof). This would stop the linkage from creating a situation where one would be dependent upon the other measure. These changes would be simple if it is the CRC's desire to do so.

O'Dann Richardson inquired if at the bottom of page 4, this title would still be Referendum No. 2.

Chairman McDermaid explained that it would remain Referendum No. 2.

Tigger Megonegal stated that there could still be the separation of the Clerk's duties and no Commission Auditor.

Mr. Scruby stated that the wisdom of the voters could control this if they are comfortable in voting for the separation of the Clerk's duties without having the Commission Auditor.

Dr. Clive Rayner inquired if it is better to not have them unlinked so that the separation of the Clerk's duties would not be at risk. Further, why do we have to have the Commission Auditor linked. What if there was no separation of the Clerk's duties and the Commission Auditor passed? What would be so bad about that?

Human Resources Director/County Coordinator Bill Green explained that there would be no one to audit. The finances would still be in the Clerk's office separate from the County Manager and there would be no authority to audit the Clerk's office.

Public Comments:

Glenn Lassiter stated that if there was too much linkage and verbiage, voters may not vote on them.

Gene Alphonse (CPA), Orange Park stated his opinion and comments concerning the Commissioner Auditor. He explained that he had come from Broward County and was there when their Charter was established and expressed that the Commission Auditor is probably the most important factor in controlling County government. There are three (3) auditing functions to be concerned with, 1) the internal auditor who works for the County Administrator (based on Broward County), 2) the external auditor who is the CPA firm that is retained to establish an opinion on the financial statements reviewed, and 3) the Commission Auditor who has the complete responsibility of the County government. Further, Mr. Alphonse stated his opinion that he did not believe that these measures should be linked at all, it was not necessary. A Commission auditor is independent of the others.

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Mark Taylor inquired what Mr. Alphonse's view of the Commission Auditor's qualifications were.

Mr. Alphonse stated that he had not reviewed any material, but stated his opinion that a Commission Auditor should be a CPA and have extensive background in governmental accounting. A Commission Auditor should have enabling legislation and could audit constitutional officers as well.

O'Dann Richardson stated that if a Commission Auditor is needed, must the CRC recommend this be done or can the BCC hire this individual?

Mr. Alphonse stated that the Commission Auditor would answer to the BCC and would need to have enabling legislation to do his job. This person would have to be mandated by the citizens of the County under the Charter.

Chairman McDermaid stated that the CRC is only concerned with the Commission Auditor under the BCC, not with Constitutional Officers.

Mr. Scruby stated that if the CRC wanted to have the Constitutional Officers audited, they would have to be changed and re-created as Charter Officials to make them subject to such powers as Mr. Alphonse has suggested. The Charter specifically says that they are to continue in their function as Constitutional Officers, so that they are not disturbed in their arrangement, power, authority and duties. In terms of whether the BCC can create a Commission Auditor, they can. However, that person would only be capable of being hired by the County Manager under the current form of our Charter government.

Dr. Clive Rayner stated that it appears that the CRC has two (2) new issues we are discussing: 1) a functioning Commission Auditor even if the separation of the Clerk's duties was not passed, as suggested by Mr. Alphonse, and 2) the Commission Auditor could investigate Constitutional Officers. It seems to me that the CRC would not have the time to discuss these issues, in that they would require more public hearings.

Mr. Green stated that St. Johns County had tried the method Mr. Alphonse has suggested and it failed. They tried to put all of the Constitutional Officers under the County Manager, eliminate their power and it did not work. Clay County has approximately 127,000 citizens and Broward County has about 2 million. In my opinion as a citizen of Clay County, I don't believe that Clay County would need this type of arrangement. Regarding the Commission Auditor, Mr. Green explained that the Board would have the power to hire and fire the Commission Auditor. In the past the auditor worked under the Clerk and the Board had no power to step in because they worked for someone else.

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Mark Scruby explained that he believed that what Mr. Alphonse was trying to say is that there were actually two (2) in-house individuals doing auditing functions in Broward County; 1) the internal auditor who worked under the County Manager, and 2) the Commission Auditor who checked the internal auditor.

Danny Hamilton asked Mr. Green if the CRC decided to not address the issue of the Commission Auditor, would you not need an internal auditor?

Mr. Green replied that we would do it, we could create a position.

Mr. Scruby stated that the Grand Jury Report recommended this to be done and it appears that everyone is trying to find a way to comply.

Danny Hamilton inquired if the County had an internal auditor at one time.

Mr. Scruby informed Danny that BCC has not ever had an auditor because the Clerk of the Court has always been the source of one.

Mr. Green explained that Julee Tinsler is the auditor at the Clerk's office and is a CPA. Ms. Tinsler not only audits the County's finances, but does a variety of other functions. Our County is not large enough to have an individual doing a separate function, the auditor has many responsibilities.

Mr. Scruby stated that if the separation is approved, the Clerk will still be handling funds related to his court activities such as the collection of money related to court filing fees, fines and forfeitures, child support, etc. There likely will still be a need for an internal auditor in his office.

Danny Hamilton inquired if this internal auditor will be a redundant function since the Clerk's office will have an internal auditor as well as the BCC.

Mr. Scruby stated that it was important for the Clerk to have an internal auditor to oversee the funds received there.

Chairman McDermaid explained to the CRC that the Clerk will need an auditor even if the separation occurs. If the Clerk's duties are separated and the financial officer duties are transferred to the County Manager, it makes sense to have the Commission Auditor function under the BCC.

O'Dann Richardson inquired as to why the BCC could not hire this Commission Auditor at a regular board meeting instead of doing it under the Charter.

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Mr. Green explained to the CRC that this could not be done in that manner. According to the Clay County Charter, the County Manager runs the day to day business with the exception of the County Attorney and to hire a Commission Auditor under the BCC would have to be done through an amendment to the Charter.

Mr. Scruby explained that the Charter provides that the Chief Executive Officer, the County Manager, is the only individual who can hire and fire employees in Clay County who are funded by the BCC, with the exception of the County Attorney who answers to the BCC.

Tigger Megonegal inquired if the County was already paying for an internal auditor.

Mr. Wilson explained that Julee Tinsler is the internal auditor for the County at this time, who reports to the Clerk of the Court. Her salary is funded by the BCC.

Tigger Megonegal inquired if the Commission Auditor would be over the internal auditor.

Mr. Scruby explained that you could not create this position when the Charter says this is the way it shall be.

Chairman McDermaid suggested that the CRC ask questions of the County Manager and Human Resources Coordinator, in that their expertise with how the County is maintained would be beneficial. Mr. McDermaid explained further that the only way to have the Commission Auditor report to the BCC is for the citizens to vote on a Charter amendment. The beauty of this process is that the voters can enact this amendment and it becomes legal. Up until now, the BCC has had the authority to do only do performance audits, which are generally done by an outside CPA. The flaw with this audit is that they are not necessarily covering the issues of fraud, waste and abuse of County funds. These auditors are not concerned with the kinds of checks and balances that we have been discussing. The enabling legislation that allows the Commission Auditor to have the authority to audit all of the County's functions, protects the interest of the County. If the duties of the Clerk remain the same as it is now, the County still does not have the checks and balances we feel are important and it does not make any sense. The separation makes a lot of sense.

Tigger Megonegal inquired why would we not want a Commission Auditor if the duties of the Clerk are not separated.

Mr. Scruby suggested that Ms. Megonegal read page 3, subsection D., Commissioner Auditor, 1 through 4, explaining that this is what the Commissioner Auditor responsibilities are.

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O'Dann Richardson stated that this is the reason to have the Commission Auditor measure and the separation of the Clerk's duties measure linked on the ballot.

Chairman McDermaid stated his opinion that this is the most logical approach for the measures and they should not be linked the other way.

MOTION MADE BY TIGGER MEGONEGAL, SECONDED BY DANNY HAMILTON AND APPROVED UNANIMOUSLY TO ACCEPT DRAFT 1-D, SECTION 1, (a), The CRC hereby proposes that, effective October 1, 1999, the Charter shall be amended as set forth in subsection (b) and (c) hereof, subject to approval by the electors of the County of a referendum comprising a single ballot question whether the Charter should be amended as set forth in subsections (b) and (c) hereof, (STRIKING OUT THE LAST PORTION OF THIS SENTENCE WHICH SAYS, AND A REFERENDUM WHETHER THE CHARTER SHOULD BE AMENDED AS SET FORTH IN SECTION 2 HEREOF), AND FURTHER, TO ACCEPT CHARTER AMENDMENT REFERENDUM NO. 1: TRANSFER OF CERTAIN DUTIES FROM CLERK TO COUNTY MANAGER, Effective October 1, 1999, (STRIKING OUT - CONDITIONED UPON THE APPROVAL OF CHARTER AMENDMENT REFERENDUM NO. 2), shall the Clay County Home Rule Charter be amended to provide that the powers, duties and functions of the clerk of the Board of County Commissioners, auditor and custodian of all county funds within the meaning of Article VIII, §1(d), Florida Constitution, be transferred from the Clerk of the Circuit Court to the County Manager?

YES

NO

Chairman McDermaid stated that the CRC should discuss the issues of the Commissioner Auditor residing in Clay County and the qualifications of the position, further, stating his opinion that the requirement to reside in the county should be stricken from the draft.

O'Dann Richardson inquired if this would create a problem for the Human Resources Department.

Mr. Green explained that he was a strong advocate for hiring the best qualified for any position, and if Clay County had a county residence requirement for such positions as directors, our library director, planning director and most of its department, budget analyst and assistant county attorney would not be employed with us. These individuals live in Duval, Bradford and St. Johns counties. To require employees to live within our county during their employment would narrow the field for employment and would be difficult to fill positions. It is in the best interest of the County to chose the best qualified, regardless of where they live.

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MOTION MADE BY BILL JAMESON, SECONDED BY RON COLEMAN AND UNANIMOUSLY CARRIED, TO ACCEPT DRAFT 1-D, D. COMMISSION AUDITOR, (2) At the time of this 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. (STRIKING OUT THE LAST SENTENCE WHICH SAYS, "THE COMMISSION AUDITOR SHALL RESIDE WITHIN THE COUNTY DURING THE TERM OF APPOINTMENT"), and further a motion made by TIGGER MEGONEGAL, SECONDED BY RON COLEMAN, AND UNANIMOUSLY CARRIED, TO STRIKE OUT THE SECOND "OR" OF THIS SECTION AND REPLACE IT WITH "AND".

Danny Hamilton stated his opinion that the Commission Auditor should be a Certified Public Accountant (CPA), holding an active license to practice in the State of Florida, and further, believes that educational experiences in governmental accounting is sufficient.

O'Dann Richardson inquired what Human Resource Director Bill Green thought of this issue.

Mr. Green explained that as long as this person is a CPA and you chose the best qualified, what do you gain by requiring this person to reside in the County.

Mr. Scruby stated that this is an alternative decision, in that a non-CPA individual who may have education and experience with governmental accounting could be a sufficient choice for employment.

Mark Taylor stated his opinion that he would like to see the **or**, changed to **and**, in Draft 1-D, D, the section concerning the education and experience in governmental accounting, in that there is some assurance that this position would not meet qualifications simply from experience and education. This is a very big statement when you use (**or**), you could leave an open field to just about anyone. Paragraph 2 on page three.

Chairman McDermaid stated that to be sure the CRC is on the same sheet of music, he suggested reviewing paragraph two, where there are two (2) **OR**'s in the sentence. The first (**or**) would remain and **the second (or) would be changed to (and)**.

Nancy Keating inquired if the Commission Auditor was not a CPA and has experience and education in governmental accounting, would this individual still be qualified for this position?

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Ron Coleman inquired if this individual had a Master Degree in Philosophy and had 30 years experience in governmental accounting, would they be disqualified?

The general consensus of the group was no, this individual would be qualified due to his experience and expertise.

Mr. Scruby explained that he wanted to be sure the CRC was agreement on the changes he mentioned earlier to the ballot titles and measures they had already approved and suggested that they review these areas to be certain they were in agreement.

Chairman McDermaid explained that Mr. Scruby will be rewriting the draft to make those changes that the CRC has discussed at this meeting. They will be sent out with the minutes and you will have the opportunity to review them closely. The draft will be named Draft 1-E, and will hopefully be a final copy to vote on.

Bill Jameson stated that two of the CRC members have already informed us they would not be at the next meeting of June 29, 1998 and if this would be the last meeting before we present our resolution to the BCC.

Tigger Megonegal suggested taking a count of those who would be attending the next meeting.

Those who would not be attending the next meeting on Monday, June 29, 1998 were: Nancy Keating, Bill Jameson, and Tigger Megonegal. All of those who were present said they would attend. Chairman McDermaid explained that we must have a quorum at this public hearing, in that there may be some difficulties in completing our mission if it is not completed at this hearing.

Chairman McDermaid stated that the next meeting will be changed to Tuesday, June 30, 1998, 7:00 p.m., Keystone Heights to be sure there will be a quorum. A wrap up meeting may be necessary, to be held tentatively July 6, 1998.

There being no further business, the meeting adjourned at 7:55 p.m.

Steven McDermaid, Chairman

Ann Mitchell, Recording Secretary

**CHARTER REVIEW COMMISSION
AGENDA
Monday, June 15, 1998
CRB, 4th Floor, Administration Building
6:30 p.m.**

- 1. Approval of minutes: June 1, 1998**

- 2. Approval of payment for advertising**

- 3. Charter Commission Discussion/Public Hearing Concerning Proposed Charter Amendment:
 - a. Office of the Commission Auditor****

- 4. Charter Commission Discussion of requirements for future public information**

- 5. Future Hearings/Meetings/Locations/Dates/Times**

