

Orange County Government

*Orange County Administration Center
201 S Rosalind Ave.
Orlando, FL 32802-1393*



Charter Review Commission Agenda - Final

Wednesday, May 6, 2020

5:30 PM

Communications Media Technology

2020 Charter Review Commission

CRC Members:

Camille Evans, Chair

James R. Auffant, Vice Chair

Jack Douglas–Russell Drake–John E. Fauth–Matthew Klein–

Jeffrey A. Miller–Nikki Mims–Angela Melvin–Samuel Vilchez Santiago–Soraya Smith–

Lee Steinhauer–Eugene Stoccardo–Anthony (Tony) Suarez–Dotti Wynn

Call to Order**I. Pledge of Allegiance****II. Public Comment****III. Chair Comments****IV. Subcommittee Recommendation – Second Reading and Vote**

- A.** CRC-20-105 Consideration of the Split Oak Subcommittee's Recommendation to amend the Orange County Charter with respect to protecting Split Oak Forest by restricting Board of County Commissioners' amendment of restrictions and covenants.

Attachments: 2020-05-06 IV. A1 Split Oak Final Report

V. Subcommittee Recommendations – First Readings (Second Readings May 14, 2020)

- A.** CRC-20-106 Consideration of the Citizen-Initiated Charter and Ordinance Amendment Process recommendation to amend the Orange County Charter with respect to suspending time for gathering petition signatures during mandatory reviews and setting deadline for 1% notification.

Attachments: 2020-05-06 V. A1 Citizen Initiated Charter and Ordinance Process Final Report

- B.** CRC-20-107 Consideration of the Permanent Funding of Green PLACE recommendation to make no changes to the Orange County Charter with respect to Permanent Funding of Green PLACE; and further, that the CRC's final report recommend the BCC utilize current mechanisms and funding structures to acquire environmentally sensitive lands and reestablish the County's ad hoc committee for Green PLACE.

Attachments: 2020-05-06 V. B1 Permanent Funding of Green PLACE Final Report

VI. Workgroup Update

- A.** CRC-20-108 CRC By Laws Workgroup Meetings Held on April 27, 2020 and May 4, 2020

Attachments: 2020-05-06 VI. A. CRC By-Laws Workgroup Summary Report

VII. New Business



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

January 22, 2020

Committee Recommendation

Split Oak Forest Committee

Committee Members:

James R. Auffant, Chair
Russell Drake
John E. Fauth
Nikki Mims
Samuel Vilchez-Santiago

Procedural Background

On November 6, 2019, the 2020 Charter Review Commission (the “CRC”), after receiving substantial public input and a presentation from General Counsel, discussed whether to establish as an evaluation topic an amendment to provide additional protections and restrict the Orange County Board of County Commissioners’ (the “Commission”) ability to permit development within the Split Oak Forest Mitigation Park (“Split Oak Forest”). A motion was made by Vice Chair Auffant, and seconded by Member Vilchez-Santiago, to have Split Oak Forest be established as an evaluation topic. With one abstention, the motion carried. A further motion was made by Vice Chair Auffant, and seconded by Member Vilchez-Santiago, to establish a subcommittee for evaluation of the issue and report its findings back to the CRC. With one abstention, the motion carried.

Summary of Recommendation

Beginning on December 6, 2019, the Split Oak Forest Committee (the “Committee”) held five public meetings to hear public input and consider proposals related to providing additional protections for Split Oak Forest and restricting the Commission’s ability to permit development within Split Oak Forest. By way of background, Split Oak Forest is a wildlife and environmental area of contiguous conservation land lying within Orange and Osceola County, with approximately 1,049 acres of conservation land in Orange County. The land also serves as a mitigation bank to offset wetlands, uplands, and endangered species impacts from both private and public entities including the Orange County Convention Center. In 1991, an Interagency Agreement between Orange and Osceola County, and the Florida Game and Freshwater Fish Commission (now known as the Florida Fish and Wildlife Conservation Commission) resulted in the award of loans from Florida

Communities Trust for the counties to purchase the land comprising Split Oak Forest for conservation purposes. As a condition of receiving the loans, Orange and Osceola County executed conservation easements under FLA. STAT. § 704.06, which are memorialized in a recorded Grant Award Agreement, as amended.¹ Split Oak Forest is managed by the Florida Fish and Wildlife Conservation Commission.

Critical to the Committee's consideration, the Grant Award Agreement, as amended, provides that it may be amended at any time if the counties and Florida Communities Trust reach an agreement in writing. Moreover, Fla. Stat. § 704.06(11), permits land encumbered by a conservation easement to be developed, disposed of or utilized "for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, **public transportation corridors**, and related appurtenances." *Id.* In other words, the current protections for Split Oak Forest do not prohibit the parties to the Grant Award Agreement from amending its terms nor does it prohibit the development of transportation facilities or other linear facilities on the land.

The public impetus for evaluating whether to provide charter level protections for Split Oak Forest arose, in part, from the Central Florida Expressway Authority and the Osceola County Expressway Authority's desire to extend an expressway through a portion of Split Oak Forest. The public input received by the Committee was strongly in favor of halting those plans. On December 17, 2019, as the Committee's deliberations continued, the Commission passed Resolution 2019-M-50, supporting the use of approximately 60 acres of Split Oak Forest located exclusively in Osceola County for the development of linear facilities contingent upon 968 additional acres of land in Orange County being placed under a conservation easement. Additional actions will be required by Florida Communities Trust, the Florida Fish and Wildlife Conservation Commission, Osceola County, Orange County, and the respective expressway authorities before a transportation corridor or linear facilities are actually constructed. While it is not possible, through a charter amendment, to prohibit a transportation corridor or linear facilities from being constructed over a conservation easement under Florida law, additional restrictions and protections from future collateral

¹ While restrictions and covenants running with the land contained in a deed or other agreement are legally different from an easement, the restrictions placed on the use of the land in the Grant Award Agreement, as amended, are in the form of a statutory "conservation easement" under Chapter 704, Florida Statutes. By its terms, "[c]onservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of property. . . ." Fla. Stat. § 704.06(2). Thus, a statutory conservation easement includes covenants and restrictions running with the land, as well as easements, and may be contained in the same document or instrument, such as the Grant Award Agreement, as amended. Accordingly, the use of the term "conservation easement" in this report encompasses and is synonymous with the covenants and restrictions described in the proposed charter amendment below.

commercial or residential development on Split Oak Forest may² be enforceable through a charter amendment.

The Committee heard from many members of the public in support of providing additional protections and restricting the Commission's ability to permit future commercial or residential development within Split Oak Forest. The Committee also heard from an invited guest, former Orange County Commissioner Pete Clarke, concerning the history of Split Oak Forest and the current protections afforded it under the conservation easement. The Committee reviewed and revised three proposed ballot titles, summaries and draft charter amendments prepared by the General Counsel at the Committee's direction, and studied potential benefits and risks associated with a charter amendment, including whether it was possible or advisable to require two successive, successful referendums before any charter amendment protecting Split Oak Forest, and ultimately approved by voters, could be amended. The General Counsel addressed these questions in a memorandum to the Committee.

By way of consensus, the Committee expressed its desire that the Commission delay final action with respect to Split Oak Forest until after the vote on the proposed charter amendment attached hereto, assuming it is approved for placement on the ballot by the CRC, is certified by the Supervisor of Elections.

After careful consideration of the information presented, the Committee voted 5 to 0 to recommend to the full CRC that the attached Ballot Title, Summary and proposed charter amendment be placed on the ballot for the 2020 election.

Reasons for Recommendation

1. Current Agreements and Restrictions on Split Oak Forest are Insufficient.

The current conservation easement and agreements governing the use of Split Oak Forest may be amended at any time and, as recently as December 17, 2019, the Commission has expressed its support for amending those restrictions. Therefore, the current restrictive covenants provided under the Grant Award Agreement as amended are insufficient to protect the wildlife and environment of Split Oak Forest from future commercial and residential development.

² The use of the term "may" is intended to reflect the novelty of the legal issue rather than to suggest that such a charter provision would or would not be legally enforceable. That matter is beyond the scope of this report.

2. No Guarantee the Commission or Future Commissions Will Honor Current Restrictions.

Since the Central Florida Expressway Authority and Osceola Expressway Authority are currently attempting to obtain approval to construct transportation and linear facilities on Split Oak Forest with the support of the current Commission, there is no guarantee without a charter amendment that future Commissions will not agree to amend or weaken the restrictions imposed on the land by the current conservation easements.

3. Benefits of Strengthening the Development Restrictions Outweigh the Risk.

While it is possible Orange County, another governmental agency, or a private party may bring a legal challenge over the restrictions imposed on the Board's ability to act, the risks and costs associated with such a challenge are outweighed by the substantial benefit Split Oak Forest offers as conservation land to the citizens of Orange County, ecotourism and to the natural environment.

Arguments Against Recommendation

1. Risk of Litigation.

A charter restriction prohibiting the Commission's ability to enter into or amend contracts to which it is a party, or to exercise its executive and legislative authority over Split Oak Forest may be subject to legal challenges from the Commission and/or other governmental agencies, with uncertain results. Additionally, private parties may challenge the amendment.

2. Florida Law Permits Transportation Corridors and Linear Facilities Through Conservation Easements.

Section 704.06(11), Florida Statutes, expressly allows for the development of transportation corridors and linear facilities on lands burdened by conservation easements. Therefore, even if the current or future Commissions support the amendment, it is unlikely the proposed charter amendment would effectively prohibit the respective Expressway Authorities, the Turnpike Authority or other governmental agencies with preemptive authority from building an expressway, turnpike, interstate or other limited access facility in Split Oak Forest.

3. The Proposed Amendment Does Not Go Far Enough.

Some members of the Committee and members of the public expressed the view that the proposed amendment does not go far enough because it does not contain penalties for Commissions, individuals, and/or non-natural persons who violate or attempt to violate its prohibitions.

Committee Recommendation

After careful consideration of the information and proposals presented, Member Drake made a motion that the Committee recommend the attached Ballot Title, Summary, and charter amendment be forwarded to the CRC for its consideration. The motion was seconded by Member Vilchez-Santiago. The Committee unanimously voted in favor of the motion.

Accordingly, having carefully considered the comments and proposals of the public, the comments and information provided by an invited guest, the memorandum and information provided by General Counsel, the documents, agreements, conservation easements, and resolutions related to Split Oak Forest, and otherwise being fully advised in the premises, **the Committee recommends that the attached amendment to the Orange County Charter, including Ballot Title and Summary, be made with respect to Split Oak Forest.**

Exhibits:

All Committee minutes
Interagency Agreement (1994)
Grant Award Agreement (1994)
Amendment to Grant Award Agreement (1995)
Resolution 2019-M-50 (2019)
All legal memoranda provided by General Counsel

Ballot Title, Summary and Proposed Amendment – Split Oak Forest

A. Introduction.

This Charter amendment would provide additional protections for the wildlife, vegetation, and environment of Split Oak Forest by restricting the Board of County Commissioners' ability to amend, modify or revoke the current restrictions and covenants limiting the use of Split Oak Forest to conservation use as set forth in the Interagency Agreement, Grant Award Agreement, and any other recorded restrictive covenants running with the land.

B. Ballot Proposal: The ballot title and question for Question #__ are as follows:

PROTECTING SPLIT OAK FOREST BY
RESTRICTING BOARD OF COUNTY
COMMISSIONERS' AMENDMENT OF
RESTRICTIONS AND COVENANTS

Amending the charter by providing charter protections for Split Oak Forest by restricting the Board of County Commissioners' ability to amend, modify, or revoke the current restrictions and covenants running with the land, which limit the use of Split Oak Forest, in whole or in part, to conservation and the protection of its wildlife, vegetation, and environment as set forth in current agreements and restrictive covenants; and providing exceptions as provided by law.

Comptroller estimated financial impact: _____.

_____ Yes

_____ No

C. Text Revisions: Article X of the Orange County Charter is created and Section 1000.01 is added. (Underline text is added to the charter).

ARTICLE X – PROTECTION OF THE SPLIT OAK FOREST MITIGATION PARK

Section 1000.01 – Split Oak Forest Mitigation Park (“Split Oak Forest”)

A. Description. - Split Oak Forest is a Wildlife and Environmental Area of contiguous conservation land lying within Osceola and Orange County, with approximately 1,049 acres in Orange County and approximately 640 acres in Osceola County, and is more particularly described as:

Orange County Portion of Split Oak Forest

All of the South 1/2 of Section 27, Township 24 South, Range 31 East, less that portion thereof lying below the Meander line of Lake Hart established by U.S. Government Survey, Orange County, Florida.

All of Section 34, Township 24 South, Range 31 East.

The West 1/2 of the Southwest 1/4 and the Southeast 1/4 of the Southwest 1/4 of Section 35, Township 24 South, Range 31 East.

And also, all property, if any, located in South 1/2 of Section 27, Township 24 South, Range 31 East, lying lakeward of the U.S. Government Survey Meander Line for Lake Hart. Any such property rights shall remain and be appurtenant to the legal title to the real property lying contiguous to such lakeward property.

Osceola County Portion of Split Oak Forest

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 in Section 3, Township 25 South, Range 31 East according to the NEW AND CORRECTED MAP OF NARCOOSSEE, as filed and recorded in the Office of the Clerk of the Circuit Court of Osceola County, Florida in Plat Book 1, Pages 73 and 74, Public Records of Osceola County, Florida; Together with all land adjoining the above described lots formerly shown as roads on said NEW AND CORRECTED MAP OF NARCOOSSEE which have heretofore been vacated, abandoned, closed and discontinued as public roads. All in Osceola County, Florida.

- B. Charter Protection.** On March 29, 1994, Orange County, Osceola County and the Florida Communities Trust entered into a Grant Award Agreement, Contract #94-CT-07-91-1A-J1-009, recorded in Orange County at O.R. Book 4721, Page

2133 and in Osceola County at O.R. Book 1180, Page 0078. The purpose of the Agreement was, in part, to set forth the covenants and restrictions on the use of Split Oak Forest, which were intended to run with the land. On or about July 12, 1994, the Grant Award Agreement was amended to remove portions of the land from the collection of environmental mitigation fees. The Amendment to Grant Award Agreement and Modification of Interagency Agreement for Split Oak Mitigation Park is recorded in Orange County at O.R. Book 4876, Page 1083 and in Osceola County at O.R. Book 1249, Page 2942. In order to further preserve the conservation, wildlife, vegetation and environmental protection afforded Split Oak Forest under the Interagency Agreement and Grant Award Agreement, it is necessary to restrict the Orange County Board of County Commissioner's ability to amend or revoke those critical provisions of the Grant Award Agreement as amended.

C. Restrictions. Notwithstanding any general or special law of the State of Florida and its agencies to the contrary, the Orange County Board of County Commissioners is prohibited from:

1. Entering into any agreement by vote, consent or otherwise, or passing any ordinance or resolution which has the effect of amending, modifying or revoking the restrictions and covenants strictly limiting the use of Split Oak Forest, in whole or in part, for conservation and the protection of its wildlife, vegetation, and environment as set forth in the Interagency Agreement, Grant Award Agreement as amended, and any other restrictive covenants running with the land described in subsection A as of the effective date of this charter amendment; and
2. Entering into any new contract or agreement with any other public or private party, which would supersede the restrictions on the use of Split Oak Forest contained in the Interagency Agreement, Grant Award Agreement as amended or any other restrictive covenant running with the land.

D. Exception. The prohibitions set forth in this section shall not apply to any action, negotiation, amendment, modification, agreement, ordinance or resolution entered into or undertaken by the Orange County Board of County Commissioners, which provides greater, additional, and/or more stringent protections for the wildlife, vegetation and environment or the preservation of the use of Split Oak Forest as conservation land.

E. Severability and Conflicts. The rights and violations provided herein should be interpreted, to the greatest extent possible, in harmony with any superior state or federal law governing the same rights and conduct. To the extent any provision of this Section of the Charter impermissibly conflicts with any superior state or federal law governing the same conduct, such provision shall be severable, and all other provisions shall remain fully enforceable.

F. Effective Date. This amendment shall become effective upon passage, which is the date certified by the Supervisor of Elections and shall not require further enabling legislation by the Orange County Board of County Commissioners.

D. Financial Analysis and Impact:

Based on information provided by the Comptroller's Office, the cost of the proposed amendment is approximately _____, which represents _____.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Split Oak Committee

December 6, 2019
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

James R. Auffant, Chair
Russell Drake
John Fauth
Nikki Mims
Samuel Vilchez Santiago (via telephone)
Clifford Shepard, CRC Attorney
Jennifer Lara-Klimetz, Assisting CRC as Staff

Invited Guest:

Commissioner Pete Clarke

The organizational meeting of the Split Oak Committee was held to identify issues and to address any member questions.

Invited Guest

Commissioner Pete Clarke addressed the committee regarding the history of Split Oak.

Committee Chair Comments

Chair Auffant opened the meeting and members of the committee introduced themselves. Following introductions, Chair Auffant presented the ballot title, summary, and proposed amendment prepared by General Counsel.

Members Open Discussion

Member Vilchez Santiago stated that the committee should study the positive and potential negative effects the Split Oak proposal. Chair Auffant agreed.

Member Drake requested the estimated financial impacts of the Split Oak proposal. Discussion ensued.

Member Fauth provided remarks regarding Commissioner Clarke's comments. Member Fauth suggested the provision should require two successful, successive referendums before allowing the Split Oaks charter protections be removed from the Charter. Member Auffant requested General Counsel Shepard research Member Fauth's suggestion and provide his opinion at the next committee meeting. Discussion ensued.

Member Mims contributed to the conversation and thanked Chair Auffant for seeking General Counsel in the preparation of the Split Oak Ballot template.

Member Fauth submitted an exhibit to the committee by Rachel E. Deming regarding Protecting Natural Resources – Forever: The Obligations of State Officials to Uphold “Forever” Constitutional Provisions. Discussion ensued. General Counsel Shepard contributed to the discussion.

Following the discussion, the members agreed to set the next committee meeting for Monday, December 16, 2019 at 2:00 p.m.

Member Auffant commended General Counsel Shepard for his work in preparing the draft Ballot title, summary, and proposed amendment.

Public Comment

The following persons addressed the committee:

Nicole Wilson
Valerie Anderson
Charles Lee
Tina Sorbo
Jim Erwin
Trevor Sorbo
Kimberly Buchheit
Eugene Stoccardo
Megan Sorbo

Future Action Plan

Member Vilchez Santiago encouraged committee members and members of the public to visit Split Oak. Discussion ensued.

The next scheduled committee meeting will be held on Monday, December 16, 2019 at 2:00 p.m. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Split Oak Committee

December 16, 2019
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

James R. Auffant, Chair
Russell Drake
John Fauth
Nikki Mims
Samuel Vilchez Santiago (via telephone)
Patrick Brackins, CRC General Counsel
Craig Stopyra, Senior Minutes Coordinator

The Split Oak Committee meeting was held to further identify related issues and to address any member questions.

Committee Chair Comments

Chair Auffant provided remarks regarding the committee's organizational meeting and referenced draft ballot title, summary and proposed amendment language provided by General Counsel. Chair Auffant advised the committee will first discuss the proposed language, and then he will review the questions asked of General Counsel at the December 6th committee meeting. General Counsel Brackins advised that the text in red, provided in the second draft, reflects changes made by General Counsel following the December 6th meeting.

Members Open Discussion

The members reviewed the second draft ballot title, summary and proposed amendment language, offered recommended changes and asked related questions. General Counsel Brackins contributed to the discussion.

Chair Auffant asked the members to review the draft language over the next couple of weeks in preparation of their next committee meeting in January.

Chair Auffant reviewed the questions asked of General Counsel at the last meeting and referenced the Research Questions memorandum provided by General Counsel on December 13, 2019. Discussion ensued. General Counsel Brackins contributed to the discussion.

Member Fauth questioned the penalty for violations. Discussion ensued. Member Mims asked General Counsel Brackins whether any other barriers exist, with the current draft language, which the committee members should consider over the next couple of weeks. General Counsel Brackins contributed to the discussion and advised he would look in to the standing issue.

Committee Chair Comments

Chair Auffant thanked the committee members and General Counsel for their work and commitment to the proposal.

Public Comment

The following persons addressed the committee:

- Chuck O'Neal
- Scott Boggs
- Bob Olsen
- Megan Sorto
- Katrina Shadicks
- Eugene Stoccardo

Future Action Plan

The next scheduled committee meeting will be held on Monday, January 6, 2020 at 4:00 p.m. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Split Oak Committee

January 6, 2020
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

James R. Auffant, Chair
Russell Drake
John Fauth
Nikki Mims
Samuel Vilchez Santiago
Cliff Shepard, CRC General Counsel
Craig Stopyra, Senior Minutes Coordinator

The Split Oak Committee meeting was held to review proposed ballot title, summary and Charter amendment language.

Committee Chair Comments

Chair Auffant asked General Counsel Shepard to provide any comments he may have regarding the proposed language. Chair Auffant expressed his desire to vote on the proposed language at today's committee meeting in order to present it to the full CRC.

CRC General Counsel Comments

General Counsel Shepard provided a status report regarding recent actions taken by the Osceola and Orange County Board of County Commissioners related to the preferred alternative for the Osceola Parkway Extension. General Counsel Shepard explained that the committee's draft amendment is designed to stop the additional development that goes on outside of the transportation. General Counsel Shepard provided remarks regarding changes to the third page of the 3rd draft of the ballot title, summary and proposed amendment language.

Members Open Discussion

Chair Auffant opened the floor for member discussion. Chair Auffant reiterated the intent of the proposal and committee. Chair Auffant reminded committee members they were asked to review the proposed language in advance of today's meeting and to bring any exceptions to the language in order to bring a recommendation to the full CRC for a vote at the February meeting. Discussion ensued. General Counsel Shepard contributed to the discussion.

Chair Auffant asked the committee members if there was anything else they would like to add to the proposed language. Members Fauth and Vilchez Santiago provided remarks and proposed changes and inclusions to the proposed language and committee final report. General Counsel Shepard contributed to the discussion.

Public Comment

The following persons addressed the committee:

Chuck O'Neal
Kimberly Buchheit
Jay Madigan
Valerie Anderson
Eugene Stoccardo
Nicole Wilson
Gretchen Robinson
Todd Catella
Commissioner Pete Clarke

Committee Vote

Chair Auffant asked for a vote regarding the proposed ballot title, summary and amendment related to Split Oak in order to be presented to the full CRC as soon as possible. Member Vilchez Santiago requested to add the language provided by Ms. Buchheit during public comment. Member Fauth requested to add a severability clause.

Motion/Second: Members Drake / Vilchez Santiago

AYE (voice vote): Chair Auffant; Members Drake, Fauth, Mims and Vilchez Santiago

Action: The committee moved to proceed with the Split Oak Forest title, summary and proposed amendment inclusive of all three sets of amendments brought up at the meeting today; and further, bring it to the full CRC.

Future Action Plan

General Counsel Shepard asked who would prepare the committee's final report. Chair Auffant asked General Counsel to prepare the draft final report.

Member Vilchez Santiago asked to discuss what may be included in the final report. Discussion ensued. General Counsel Shepard contributed to the discussion.

The next scheduled committee meeting will be held on Wednesday, January 22, 2020 at 3:00 p.m. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Split Oak Committee

January 22, 2020
Comptroller's 4th Floor Conference Room
3:00 p.m.

Committee Members:

James R. Auffant, Chair
John Fauth
Nikki Mims
Samuel Vilchez Santiago
Clifford Shepard, CRC General Counsel
Jennifer Lara-Klimetz, Assisting CRC as Staff

Absent Member:

Russell Drake

The Split Oak Committee meeting was held to review the final version of the ballot title, summary and proposed Charter amendment and to discuss the subcommittee final report.

General Counsel Presentation of the Final Report, Recommendation, Ballot Title and Ballot Summary

General Counsel Shepard presented the draft final report with ballot title, summary and proposed amendment language that was distributed to the committee members on January 16, 2020.

Members Open Discussion

Chair Auffant asked the committee members to provide their input. Discussion ensued. Member Fauth offered suggested changes to the final report. General Counsel Shepard contributed to the discussion.

Committee Chair Comments

Chair Auffant thanked the committee members. Chair Auffant provided remarks regarding why he brought this proposal forward to the CRC.

Public Comment

The following persons addressed the committee:

Nicole Wilson
Chuck O'Neal
Eugene Stoccardo
Johana Munoz (phonetic)

Committee Vote

Motion/Second: Members Vilchez Santiago / Mims

AYE (voice vote): Chair Auffant; Members Fauth, Mims and Vilchez Santiago

Absent: Member Drake

Action: The committee moved to approve the package before the committee to be sent to the full CRC with the committee's recommendation that Split Oak be placed on the ballot for 2020, including Member Fauth's amendments.

Resolution

Member Vilchez Santiago provided remarks regarding the resolution he drafted and that was provided to the committee members on January 17, 2020. Member Vilchez Santiago asked that the resolution come from the entire committee when presenting it to the full CRC. Discussion ensued.

Motion/Second: Members Vilchez Santiago / Fauth

AYE (voice vote): Chair Auffant; Members Fauth and Mims

Absent: Member Drake

Action: The committee moved to approve the resolution and send it to the full CRC for the Monday, March 23 meeting as a separate item from the final report.

Member Vilchez Santiago requested General Counsel to present the resolution to the full CRC. Chair Auffant requested General Counsel Shepard to review the resolution prior to the next committee meeting.

Member Vilchez Santiago advised citizen Kimberly Buchheit asked for her email to be read in to the record. Chair Auffant asked for the email to be included in the record.

Future Action Plan

Chair Auffant advised if the committee members have no objections to changes made to the resolution by General Counsel, then the next committee meeting will be cancelled.

The next scheduled committee meeting will be held on Wednesday, February 12, 2020 at 4:00 p.m. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Split Oak Committee

February 12, 2020
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

James R. Auffant, Chair
Russell Drake
John Fauth
Samuel Vilchez Santiago
Clifford Shepard, CRC General Counsel
Craig Stopyra, Senior Minutes Coordinator

Absent Members:

John Fauth
Nikki Mims

The Split Oak Committee meeting was held to discuss the subcommittee final report and proposed resolution.

Members Open Discussion

Chair Auffant asked the committee members if there was anything they would like to change or discuss before presenting to the full CRC. The members discussed the direction provided by Chair Evans at the February 5, 2020 meeting related to including the resolution as part of the subcommittee's final report. Discussion ensued. General Counsel Shepard contributed to the discussion.

Chair Auffant requested General Counsel Shepard contact Chair Evans for clarification that the final report and resolution will be two separate votes. Discussion ensued. General Counsel Shepard contributed to the discussion.

Member Vilchez Santiago recommended that the resolution be included for the full CRC meeting on May 14, 2020, after the committee has presented its second reading of the final report on May 6, 2020. Discussion ensued. Further, Member Vilchez Santiago recommended that the resolution be amended, as it was formatted by General Counsel, and include it for a vote on May 14, 2020 if the Split Oak amendment is approved on May 6, 2020. General Counsel Shepard advised that the resolution does not need to be amended. Discussion ensued amongst the subcommittee members and General Counsel.

Committee Chair Comments

Chair Auffant thanked Member Mims for her assistance and congratulated the subcommittee members on their excellent job. In addition, Chair Auffant thanked General Counsel for his work. Discussion ensued.

Future Action Plan

Chair Auffant advised he and General Counsel would present the first reading of the subcommittee's final report.

General Counsel Shepard confirmed with Chair Auffant that he will remove the language to include the resolution in the final report as well as fixing typographical errors.

Member Vilchez Santiago provided remarks regarding the committee's vote at their last meeting on January 22, 2020 related to bringing the resolution to the full CRC on March 23, 2020. Member Vilchez Santiago recommended amending the vote to present on May 14, 2020. Member Vilchez Santiago will provide the materials to the Clerk's Office in time for the agenda deadline.

Public Comment

No members of the public addressed the committee during public comment.

SNV 2-1-94
DIVISION LOG # _____

CONTRACT ROUTING REVIEW FORM

CONTRACT NUMBER 93078 CONTRACTOR _____

BRIEF TITLE SPLIT OAK MITIGATION PARK

(X)NEW ()RENEWAL ()EXTENSION ()AMENDMENT (See Reverse for Definitions)

CONTRACT BEGIN DATE _____ END DATE _____ OPTION FOR _____ YEARS

ORIGINATOR/CONTACT MIKE ALLEN PHONE 8-6661 DIV/OFF _____

TOTAL CONTRACT AMOUNT \$ _____ PAYMENT AMOUNT \$ 175,000 *mya*

BILLING PERIODS: ()MONTHLY ()QUARTERLY ()ANNUALLY ()OTHER _____

()EXPENDITURE ()REVENUE (X) AGREEMENT

RCC CODE 7075 *mya* CATEGORY _____ OBJECT CODE _____ PROJECT _____

CLASS/GROUP CODE _____ SACCS YES _____ NO 1

ROUTING ORDER FOR APPROVAL	CONCUR/INITIALS	DATE	COMMENTS
1. PROJECT LEADER*	<i>mya</i>	<u>4.17.94</u>	
2. DIV/REGIONAL DIRECTOR*	<i>BGA</i>	<u>2/17/94</u>	
3. PURCHASING*	<i>BSH</i>	<u>2/17/94</u>	
4. LEGAL	<i>JL</i>	<u>2/22/94</u>	
5. AD SERVICES			
DISBURSEMENT MANAGER			
REVENUE MANAGER			
ACCOUNTING DIRECTOR			
FEDERAL AID ACCOUNTANT*			
AD SERVICES DIRECTOR	<i>SP</i>	<u>2/22/94</u>	
6. EXEC/DIV/REGION DIRECTOR*	<i>WCS</i>		

*ROUTING OF FEDERAL AID DOCUMENTS ONLY

DIVISION/OFFICES ARE TO FORWARD COMPLETED ORIGINAL CONTRACT AND ROUTING SLIP TO THE PURCHASING OFFICE.

DEFINITIONS

RENEWAL - means contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal.

EXTENSION - means an increase in time allowed for the contract period due to circumstances which, without fault of either party, make performance impracticable or impossible, or which prevent a new contract from being executed, with a proportional increase in the total dollar amount; which increase is to be based on the method and rate previously established in the contract.

AMENDMENT - means a correction, revision or a change to an existing contract, other than one which solely affects a renewal (as stated above) or the extension of the duration of the contract (as stated above).

NOTE: Careful attention should be given to any alterations to contracts resulting from a formal bid. Please contact the Purchasing Office.

FEB 15 1994 JC/SD

MAR 1 1994 GCH/20/1994 for initialed changes

INTERAGENCY AGREEMENT FOR SPLIT OAK FOREST MITIGATION PARK

This interagency agreement is made by and between ORANGE COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "Orange"), OSCEOLA COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "Osceola") and FLORIDA GAME AND FRESHWATER FISH COMMISSION, a state agency existing under the Florida Constitution (hereinafter referred to as the "GFC").

RECITALS

WHEREAS the GFC has an interest in the establishment of a Mitigation Park program to accommodate wildlife mitigation efforts within the East Central Florida Regional Planning Council boundary.

WHEREAS both Osceola and Orange have a concurrent interest in providing lands that could be used for mitigation of environmental impacts caused by existing and proposed development.

WHEREAS a site, which is located in both Osceola and Orange County and which is referred to as the Split Oak Forest Mitigation Park, is the preferred site for the establishment of a mitigation park facility. The Split Oak Forest Mitigation Park (hereinafter referred to as the "Project") is depicted in Exhibit A herein attached and made a part of this agreement.

WHEREAS the interest of all the above named parties who are involved in environmental mitigation could be best served by submitting a joint application for funding through the Florida Communities Trust (hereinafter referred to as the "FCT") program for the acquisition of the Project.

WHEREAS, on December 16, 1991 and December 17, 1991, the Osceola County Board of County Commissioners and the Orange County Board of County Commissioners respectively approved the submittal of a partnership application with the Florida Game and Freshwater Fish Commission to the FCT for the Project.

WHEREAS, the FCT Governing Board pursuant to Sections 259.101 and 380.502, Florida Statutes, and Rule 9K-4, Florida Administrative Code awarded Conceptual Approval to the Project partnership application on April 30, 1992.

WHEREAS, Osceola has been approved for a \$2,700,000.00 loan from FCT, Orange has been awarded a \$2,320,000 matching grant from FCT and GFC has established the East Central Florida Habitat Trust Fund for the Project and has agreed to commit \$175,000 towards the initial acquisition of the Project.

for obtaining a management/conservation easement within
WHEREAS, on June 19, 1992, the FCT Governing Board approved the Conceptual Approval Agreement setting forth the terms and conditions of funding for the Project.

WHEREAS, on September 16, 1992, Orange and Osceola approved the Conceptual Approval Agreement which required as one of its conditions, the execution of an interagency agreement between Orange, Osceola and GFC that addresses the fiscal and management responsibilities for the Project.

NOW, THEREFORE, in consideration of the foregoing, and of the terms and conditions stated below, Orange, Osceola and GFC agree to be legally bound as follows:

1. FISCAL RESPONSIBILITIES. All monies that are collected by each of the parties for environmental mitigation satisfied by using the Project shall comply with the following subsections.

(A) Each party agrees to establish the fees charged for participation in the Project as follows:

Total Project Acquisition Costs shall mean the total purchase price of the Project including costs of any title insurance, property appraisals, boundary surveys, environmental audits, closing costs and other direct and incidental costs required for purchase of the Project minus the \$2,320,000.00 matching grant from Florida Communities Trust. No agency staff or internal costs shall be included.

Non-FCT
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An Upland Preservation Mitigation Fee shall mean Total Project Acquisition Costs minus the purchase cost of all on-site wetlands divided by the total number of non-FCT upland acres within the Project plus a 3.0% State Imposed Loan Charge.

A Wetland Restoration/Creation Mitigation Fee shall mean the Total Project Acquisition Costs minus the purchase price of all on-site non-FCT uplands divided by the total number of non-FCT wetland acres within the Project plus by a 3.0% State Imposed Loan Charge plus any design, construction, monitoring, maintenance or any similar costs directly related to creation or restoration of wetlands on the Project.

308 *NON-FCT*
A Wetland Preservation Mitigation Fee shall mean the Total Project Acquisition Costs minus the purchase price of all on-site uplands divided by the total number of wetland acres within the Project plus a 3.0% State Imposed Loan Charge.

Q For the purposes of this agreement, an acre of the Project shall be synonymous with a mitigation credit.

FCT uplands and wetlands are those areas legally defined in the final boundary survey for the project, and shall not be available for sale as mitigation.

(B) To provide sufficient funds for perpetual management, each party agrees to charge a management fee for the Project. The management fee shall be calculated as follows:

All non-FCT uplands used as mitigation shall be assessed a GFC management fee of 15% equivalent to the Upland Preservation Mitigation Fee multiplied by 15%. All non-FCT wetlands used as mitigation shall be assessed a GFC fee of 15% equivalent to the Wetland Preservation Fee multiplied by 15%.

County Administration Fee = \$100.00 per mitigation acre

308
Q (C) All Upland and Wetland Preservation Mitigation Fees collected by each party shall be used to first satisfy repayment of the \$2,700,000 loan from Florida Communities Trust. Only that portion of the Wetland Restoration/Creation Mitigation Fees collected by each party that excludes any design, construction, monitoring, maintenance or any similar costs directly related to the creation or restoration of wetlands on the Project shall be used to satisfy repayment of the \$2,700,000 loan from FCT. Each party agrees to require all Upland, Wetland Restoration/Creation or Wetland Preservation Mitigation Fees as described above to be made payable to the Florida Communities Trust. Each payment to FCT shall be a cashiers or certified check and sent via certified mail return receipt by the property owner or developer in need of environmental mitigation with copies of the check and receipt provided to the other two parties such that all three parties are notified on all monies collected and paid to FCT. No permits or mitigation credits shall be issued or validated by each of the parties until the payment has been received by FCT. For the purposes of this agreement, "permit" is defined as any official action of each party that could result in the physical alteration of land, clearing of vegetation or similar activities that would change the existing land use of the property that is the subject of a development approval

each respective County, as appropriate, or to

application or the taking of an animal species as listed by Chapter 39-27.003, 39-27.004, 39-27.005, Florida Administrative Code.

(D) Each party agrees to require all Management and Administration Fees levied to be made payable to the GFC and Orange or Osceola as may be applicable. Each payment to GFC and to the applicable County shall be a cashiers or certified check and sent via certified mail return receipt by the property owner or developer in need of environmental mitigation with copies of the check and receipt provided to the other two parties such that all three parties are notified on all monies collected and paid to GFC and to the respective counties. When the Project is used to secure permit approval, no permit or mitigation credit shall be issued or validated by each of the parties until the payment has been received by GFC or the applicable County.

(E) Upland, Wetland Restoration/Creation or Wetland Preservation Mitigation Fees collected by each of the parties shall be used to repay the \$ 3,179,615.00 cash advance provided by Orange once the FCT loan has been repaid in full. Each payment to Orange shall be a cashiers or certified check and sent via certified mail return receipt by the property owner or developer in need of environmental mitigation with copies of the check and receipt provided to the other two parties such that all three parties are notified on all monies collected and paid to Orange. Once Orange has been repaid in full, then Upland, Wetland Restoration/Creation or Wetland Preservation Mitigation Fees collected by each of the parties shall be used to repay the \$414,285.00 cash advance provided by Osceola in accordance with the same procedure.

(F) Once the FCT loan has been repaid in full, the 3% State Imposed Loan Charge shall no longer be included in the Upland Preservation, Wetland Restoration/Creation or Wetland Preservation Mitigation Fees charged by the parties and subsequently paid to Orange and Osceola.

(G) Once the cash advances provided by Orange and Osceola have been paid in full, then each party agrees to consider the Project completed and that each party can no longer collect Upland, Wetland Restoration/Creation or Wetland Preservation Fees, Management, or Administration Fees.

(H) GFC agrees that all monies collected by that agency for incidental take permits for gopher tortoises (Gopherus polyphemus) within Volusia, Osceola, Orange, Lake, Seminole and Brevard Counties shall be administered solely in accordance with Section 1 of this

agreement until FCT and Orange and Osceola have been repaid in full. To the extent that under its existing and future rules and in accordance with valid biological principles GFC finds that it can use the Project as mitigation for other listed wildlife species, it will direct monies resulting from incidental take permits within Volusia, Osceola, Orange, Lake, Seminole and Brevard Counties to be administered in accordance with Section 1 and 3(A) of this agreement.

2. MANAGEMENT RESPONSIBILITIES.

(A) GFC will establish the Project as a Wildlife and Environmental Area pursuant to Rule 39-17.002 and will assume management responsibility of the Project. Management Fees collected pursuant to subsection 1 of this agreement will be administered by GFC and used to establish a management endowment fund and the principal and interest that accrues on behalf of monies held in this account will be used to fund management activities on an annual basis solely for the Project. This assignment of management responsibility shall not preclude Orange or Osceola from recreational use of the Project so long as said recreational uses comply with specific regulations promulgated by GFC pursuant to Rule 39-17.005, F.A.C., are consistent with the management plan adopted as part of the Project plan approval (as defined by Rule 9K-4.011 F.A.C.) for the Project, do not unreasonably interfere with the protection of the wildlife and vegetation and comply with the terms and conditions of the Conceptual Approval Agreement between Orange, Osceola, and FCT. No wetland creation or restoration shall occur on non-FCT uplands without the prior approval of GFC. Any proposed recreational uses may be used by Orange and Osceola to maintain their adopted level of service standards for recreation but shall be subject to the written approval of the GFC and FCT. Said approval shall not be unreasonably withheld upon clear demonstration that the proposed recreational uses do not adversely impact the natural resources of the Project or listed wildlife populations of the Project, violate any rule adopted under Rule 39-17.005, F.A.C., and enhance the public recreational use of the Project.

(B) Administration Fees collected by Orange and Osceola pursuant to Section 1 of this Agreement shall only be used to finance the establishment and operation of a county wetland mitigation bank.

(C) To ensure that lands that have been obligated by GFC as mitigation for listed wildlife species and for which Upland Preservation Mitigation Fees have been collected are permanently protected as GFC Mitigation

Parks, conservation easements shall be granted to GFC by Orange or Osceola. Conservation easements conveyed to GFC shall be consistent with Section 704.06, Florida Statutes, and shall protect the ability of GFC to access and manage lands within the easement. ~~Within 90 days of the transfer of fee simple title of the Project to~~ Orange and Osceola ~~Osceola~~ shall convey a conservation easement for at least 100 acres of non-FCT uplands to GFC. Upon written notice from GFC that 90% of the previous contiguous easement has been obligated by GFC and for which Upland Preservation Mitigation Fees have been collected, subsequent conservation easements of at least 100 acres shall be granted by Osceola to GFC. When 90% of the last easement in Osceola is obligated by GFC, Orange shall grant conservation easements in the same manner as described above until all non-FCT uplands have been obligated by GFC and for which Upland Preservation Mitigation Fees have been collected.

10.8
Prior to
GFC directing
payments to
Orange or Osceola,

10.8
C.

3. MITIGATION ADMINISTRATION. Mitigation credits shall be administered by each of the parties as follows:

(A) The Project contains approximately 1,100 acres of upland preservation mitigation credits. Upland Preservation Mitigation Fees for wildlife mitigation shall be administered by the GFC. No more than approximately 1,100 upland acres, pending completion of the final boundary survey for the Project, shall be made available for listed wildlife mitigation credits. Orange and Osceola can sell Upland Preservation Mitigation credits as long as the GFC Management Fee is assessed. No permits shall be validated by GFC until payment of the Upland Preservation Mitigation Fee and Management Fees have been made in accordance with Section 1 of this agreement. Orange and Osceola shall consider validation of a permit by the GFC for mitigation satisfied by using the Project and payment of the Upland Preservation Mitigation Fee and Management Fees in accordance with Section 1 as satisfying their respective local ordinances regarding said species.

(B) Upland Preservation, Wetland Restoration/Creation and/or Wetland Preservation Mitigation Fees for wetland impacts that are satisfied by using the Project shall be administered by Orange and Osceola according to the following ratios:

- (1) For wetlands that are hydrologically connected to natural surface water or isolated wetlands greater than or equal to 40.0 acres, the mitigation ratio shall be 5.0 acres of mitigation to 1.0 acre of impact.

(2) For isolated wetlands less than 40.0 acres but greater than or equal to 5.0 acres shall be as follows:

- (a) for non-forested wetlands, the mitigation ratio is 1.5 acres of mitigation for 1.0 acre of impact;
- (b) for cypress dominated forested wetlands, the mitigation ratio is 2.0 acres of mitigation for 1.0 acre of impact;
- (c) for non-cypress dominated forested wetlands, the mitigation ratio is 2.5 acres of mitigation for 1.0 acre of impact.

(3) For isolated wetlands less than 5.0 acres, the mitigation ratio is 1.0 acre of mitigation for 1.0 acre of impact.

(4) The above shall apply unless these ratios are modified by a mitigation bank permit issued to Orange and/or Osceola by the South Florida Water Management District, Florida Department of Environmental Regulation, and the Army Corps of Engineers. In such case, mitigation ratios, success criteria and the operation procedures shall be established in accordance with said permit.

No permits or mitigation permits shall be issued by Orange or Osceola until payment of the Upland, Wetland Restoration/Creation or Wetland Preservation Mitigation Fees, Management and Administration Fees have been made in accordance with Section 1 of this agreement.

(C) Mitigation credits for wildlife or wetlands shall be available to any property owner or developer in need of environmental mitigation without respect to political jurisdiction within the East Central Florida Regional Planning Council boundary. Payments shall be made in accordance with Section 1 of this Agreement.

(D) If Orange or Osceola wish to reserve Wetland Restoration/Creation or Wetland Preservation Mitigation Fees for their exclusive use and discretion in awarding credits, then the party desirous of reserving the credits shall provide written notice via certified mail to the other parties of said intent. The notice shall include the amount of credits reserved and indicate the period of time of reservation. In no case shall the reservation exceed three (3) years or reserve wetland credits outside the party's respective political jurisdiction. If Orange or Osceola desire to extend the reservation beyond the initial three (3) year period,

then the Wetland Restoration/Creation or Wetland Preservation Mitigation Fee, Management and Administration Fee for each reserved credit becomes immediately payable in full in accordance with Section 1 of this agreement.

4. **COMPREHENSIVE PLAN AMENDMENTS.** As required by the Conceptual Approval Agreement and after fee simple title for the Project has been transferred to Orange and Osceola, Orange and Osceola shall amend their respective future land use maps at the next available amendment cycle such that the Project is assigned to a category dedicated to open space, conservation, or outdoor recreation uses as appropriate.
5. **ANNUAL REPORTS.** Orange, Osceola and GFC agree to jointly prepare and submit the annual report to FCT as required by the Conceptual Approval Agreement.
6. **MODIFICATION OF AGREEMENT.** This agreement may be modified to resolve any conflicts or unforeseen circumstances that may arise during the establishment, administration or completion of the Project. Modification of this agreement shall require approval by all parties to this agreement and FCT.
7. **TERMINATION OF AGREEMENT.** This Agreement shall automatically terminate upon the failure to acquire the Project in accordance with the provisions of the Conceptual Approval Agreement.
8. **SEVERABILITY.** If any provision of this Interagency Agreement or the application thereof to any person or circumstance is held by a court of competent jurisdiction to be partially or wholly invalid or unenforceable for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application and to this end the provisions of this Agreement are declared severable.
9. **EFFECTIVE DATE.** This Agreement shall take effect on the later of the dates stated below after each party has approved it.

10. The GFC's obligation under this agreement is subject to legislative appropriation and compliance with laws governing state trust funds

OSCEOLA COUNTY, FLORIDA

By: [Signature]
Chairman, Osceola County
Commission

~~Accepted as to Legal Form
and Sufficiency:~~

Date: _____

FLORIDA GAME AND FRESH
WATER FISH COMMISSION

By: [Signature]
Executive Director, Florida Game and
Fresh Water Fish Commission

Accepted as to Legal Form
and Sufficiency:

[Signature]
Date: 2/22/94

FOR THE USE AND RELIANCE OF
OSCEOLA COUNTY ONLY
APPROVED AS TO FORM

2-15, 1994

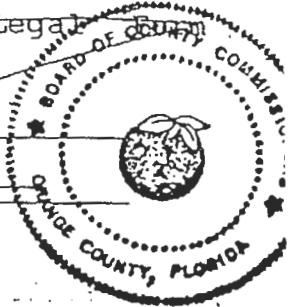
[Signature]
NEAL D. BOWEN
Osceola County Attorney

ORANGE COUNTY, FLORIDA

By: [Signature] for County Administrator
Orange County Chairman

~~Accepted as to Legal Form
and Sufficiency:~~

Date: _____



FOR THE USE AND RELIANCE OF
ORANGE COUNTY ONLY
APPROVED AS TO FORM

2-8 1994
[Signature]
PAUL H. CHAPMAN
ASSISTANT COUNTY ATTORNEY

BEFORE ME this day personally appeared Jan C. Bennett County Administrator to me known to be the Orange County Chairman who acknowledged that she executed the foregoing on behalf of Orange County, Florida, this 16th day of February 1997.4



TRISHA M. GRENNELL
MY COMMISSION # CC316626 EXPIRES
September 16, 1997
BONDED THRU TROY FAIR INSURANCE, INC.

Trisha M. Grennell
Notary Public

My Commission Expires: September 16, 1997

BEFORE ME this day personally appeared Charles Owen to me known to be the Osceola County Chairman who acknowledged that he executed the foregoing on behalf of Osceola County, Florida, this 15th day of February 1997.4

Beverly G. Downing
Notary Public

My Commission Expires:

BEVERLY G. DOWNING
Notary Public, State of Florida
My Commission Expires June 26, 1997
Commission #CC011804

BEFORE ME this day personally appeared Allan J. Egbert to me known to be the Florida Game and Fresh Water Fish Commission Executive Director who acknowledged that he executed the foregoing on behalf of the Florida Game and Freshwater Fish Commission, Florida, this 23rd day of

February 1997.
4

Rosemary Mara
Notary Public
My Commission Expires:



ROSEMARY MARA
MY COMMISSION # CC 153102 EXPIRES
October 20, 1995
BONDED THRU TROY FAIR INSURANCE, INC.

EXHIBIT A

SPLIT OAK FOREST MITIGATION PARK
LEGAL DESCRIPTION

Orange County portion

All of the South 1/2 of Section 27, Township 24 South, Range 31 East less that portion thereof lying below the Meander Line of Lake Hart established by U.S. Government Survey, Orange County, Florida.

All of Section 34, Township 24 South, Range 31 East.

The West 1/2 of the Southwest 1/4 and the Southeast 1/4 of the Southwest 1/4 of Section 35, Township 24 South, Range 31 East.

And also, all property, if any, located in South 1/2 of Section 27, Township 24 South, Range 31 East lying lakeward of the U.S. Government Survey Meander Line for Lake Hart. Any such property rights shall remain and be appurtenant to the legal title to the real property lying contiguous to such lakeward property.

All of the above located in Orange County, Florida.

Osceola County portion

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 in Section 3, Township 25 South, Range 31 East according to the NEW AND CORRECTED MAP OF NARCOOSSEE, as filed and recorded in the Office of the Clerk of the Circuit Court of Osceola County, Florida in Plat Book 1, Pages 73 and 74, Public Records of Osceola County, Florida; Together with all land adjoining the above described lots formerly shown as roads on said NEW AND CORRECTED MAP OF NARCOOSSEE which have heretofore been vacated, abandoned, closed and discontinued as public roads, all in Osceola County, Florida.

All of the above located in Osceola County, Florida.

MAR 29 1994 *ad/glc*

Orange Co FL 4826148
04/04/94 04:07:42pm
OR Bk 4721 Pg 2133
Rec 55.50

CONTRACT # 94-CT-07-91-1A-J1-009 FLORIDA COMMUNITIES TRUST
P1A AWARD# 91-009-P1A

GRANT AWARD AGREEMENT

THIS AGREEMENT is entered into this 29th day of MARCH, 1994, by and between the FLORIDA COMMUNITIES TRUST ("FCT"), a nonregulatory agency within the State of Florida Department of Community Affairs, and OSCEOLA COUNTY, a political subdivision of the State of Florida and ORANGE COUNTY, a political subdivision of the State of Florida ("FCT Recipient"), in order to impose terms, conditions, and restrictions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds and as described in Exhibit "A" attached hereto and made a part hereof ("Project Site"), as shall be necessary to ensure compliance with applicable Florida Law and federal income tax law and to otherwise implement provisions of Chapters 253, 259, and 380, Florida Statutes.

WHEREAS, Part III Chapter 380, Florida Statutes, the Florida Communities Trust Act, creates a nonregulatory agency within the Department of Community Affairs, which will assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans and in otherwise conserving natural resources and resolving land use conflicts by providing financial assistance to local governments to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, Section 259.101(3)(c), Florida Statutes, provides for the distribution of ten percent (10%) of the net Preservation 2000 Revenue Bond proceeds to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the FCT;

WHEREAS, the Governor and Cabinet authorized the sale and issuance of State of Florida Department of Natural Resources Preservation 2000 Revenue Bonds (Bonds);

WHEREAS, the Bonds were issued as tax-exempt bonds, meaning that the interest on the Bonds is excluded from the gross income of Bondholders for federal income tax purposes;

WHEREAS, Rule 9K-4.010(2)(e), F.A.C., authorizes FCT to impose conditions for funding on those FCT applicants whose

projects have been selected for funding in accordance with Rule Chapter 9K-4, F.A.C.;

WHEREAS, the FCT has approved the terms under which the Project Site is acquired and the deed whereby the FCT Recipient acquires title to the Project Site shall contain such covenants and restrictions as are sufficient to ensure that the use of the Project Site at all times complies with Section 375.051, Florida Statutes and Section 9, Article XII of the State Constitution and shall contain clauses providing for the conveyance of title to the Project Site to the Board of Trustees of the Internal Improvement Trust Fund upon the failure of the FCT Recipient to use the Project Site acquired thereby for such purposes; and

WHEREAS, such covenants and restrictions shall be imposed by an agreement which shall describe with particularity the real property which is subject to the agreement and shall be recorded in the county in which the real property is located; and

WHEREAS, the purpose of this Agreement is to set forth the covenants and restrictions that are imposed on the Project Site subsequent to its acquisition with the FCT Preservation 2000 Bond Proceeds.

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, FCT and FCT Recipient do hereby contract and agree as follows:

I. GENERAL CONDITIONS.

1. Upon execution and delivery by the parties hereto, the FCT Recipient shall cause this Agreement to be recorded and filed in the official public records of Orange County, Florida, and in the official public records of Osceola County, Florida, and referenced by the warranty deeds vesting fee simple title to the Project Site in the FCT Recipient, and in such manner and in such other places as FCT may reasonably request, and shall pay all fees and charges incurred in connection therewith.

2. The FCT Recipient and FCT agree that the State of Florida Department of Environmental Protection will forward this Agreement to Department of Environmental Protection Bond Counsel for review. In the event Bond Counsel opines that an amendment is required to this Agreement so that the tax exempt status of the Preservation 2000 Revenue Bonds is not jeopardized, FCT and FCT Recipient shall amend the Agreement accordingly.

3. This Agreement may be amended at any time. Any amendment must be set forth in a written instrument and agreed to by both the FCT Recipient and FCT.

4. This Agreement and the covenants and restrictions contained herein shall run with the Property herein described and shall bind, and the benefits shall inure to, respectively, the FCT and the FCT Recipient and their respective successors and assigns.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, with respect to both substantive rights and with respect to procedures and remedies.

6. Any notice required to be given hereunder shall be given by personal delivery, by registered mail or by registered expedited service at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto, and any such notice shall be deemed received on the date of delivery if by personal delivery or expedited delivery service, or upon actual receipt if sent by registered mail.

FCT:

Florida Communities Trust
Department of Community Affairs
2740 Centerview Drive
Tallahassee, FL 32399-2100
ATTN: Executive Director

FCT Recipient:

Orange County, a political
subdivision of the State of Florida
201 South Rosalind Avenue
Orlando, FL 32801
ATTN: Board of County Commissioners

Osceola County, a political
subdivision of the State of Florida
17 South Vernon Avenue
Kissimmee, FL 32741

ATTN: Board of County Commissioners

7. If any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

II. PROJECT SITE REQUIREMENTS IMPOSED BY CHAPTER 259, CHAPTER 375, AND CHAPTER 380, PART III, FLORIDA STATUTES.

1. If any essential term or condition of this grant agreement is violated by the FCT Recipient or by some third party with the knowledge of the FCT Recipient and the FCT Recipient does not correct the violation within 30 days of notice of the violation, fee simple title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The FCT shall treat such property in accordance with Section 380.508(4)(e), Florida Statutes.

FCT shall investigate any violation of terms and conditions to determine if both FCT Recipients have knowledge of or are a party to the violation. If it is determined that one of the FCT Recipients has no knowledge of, has notified FCT of, or is not a party to the violation, the FCT Recipient not in violation shall not be required to convey fee simple title to its interest in the Project Site to the Board of Trustees of the Internal Improvement Trust Fund.

2. Any transfer of the Project Site shall be subject to the approval of FCT and FCT shall enter into a new agreement with the transferee, containing such covenants, clauses, or other restrictions as are sufficient to protect the interest of the people of Florida.

3. The interest, if any, acquired by the FCT Recipient in the Project Site will not serve as security for any debt of the FCT Recipient unless FCT approves the transaction.

4. If the existence of the FCT Recipient terminates for any reason, title to all interest in real property it has acquired with the FCT award shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, unless FCT negotiates an agreement with another local government or nonprofit organization which agrees to accept title to all interest in and to manage the Project Site.

5. In the event that the Project Site is damaged or destroyed or title to the Project Site, or any part thereof, is taken by any governmental body through the exercise or the threat of the exercise of the power of eminent domain, the FCT Recipient shall deposit with the FCT any insurance proceeds or any condemnation award, and shall promptly commence to rebuild, replace, repair or restore the Project Site in such manner as is consistent with the Agreement. The FCT shall make any such insurance proceeds or condemnation award moneys available to provide funds for such restoration work. In the event that the FCT Recipient fails to commence or to complete the rebuilding,

repair, replacement or restoration of the Project Site after notice from the FCT, the FCT shall have the right, in addition to any other remedies at law or in equity, to repair, restore, rebuild or replace the Project Site so as to prevent the occurrence of a default hereunder.

Notwithstanding any of the foregoing, FCT will have the right to seek specific performance of any of the covenants and restrictions of this Agreement concerning the construction and operation of the Project Site.

III. PROJECT SITE OBLIGATIONS IMPOSED BY FCT ON THE FCT RECIPIENT.

1. The Project Site shall be managed only for the conservation, protection and enhancement of natural and historical resources and for passive, natural resource-based public outdoor recreation which is compatible with the conservation, protection and enhancement of the Project Site, along with other related uses necessary for the accomplishment of this purpose. The proposed uses for the Project Site are specifically designated in the Project Plan as approved by FCT.

2. The FCT Recipient shall prepare and submit to FCT an annual report as required by Rule 9K-4.013, F.A.C.

3. The FCT Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation, or outdoor recreation uses as appropriate. If an amendment to the FCT Recipient's comprehensive plan is required to comply with this paragraph, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the FCT Recipient.

4. FCT Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the adopted and approved comprehensive plan for the jurisdiction as applicable. Evidence shall be provided to FCT that all required licenses and permits have been obtained prior to the commencement of any construction.

5. The FCT Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the FCT approved project plan.

6. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the FCT Recipient at the Project Site.

7. All buildings, structures, improvements, and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and/or major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. The approval by FCT of the FCT Recipient's management plan addressing the items mentioned herein shall be considered written approval from FCT.

8. If archaeological and historic sites are located on the Project Site, the FCT Recipient shall comply with Chapter 267, Florida Statutes. The collection of artifacts from the Project Site or the disturbance of archaeological and historic sites on the Project Site will be prohibited unless prior written authorization has been obtained from the Department of State, Division of Historical Resources.

9. The FCT Recipient shall ensure that the Project Site is identified as being publicly owned and operated as a natural resource-based public outdoor recreational site in all signs, literature and advertising regarding the Project Site. The FCT Recipient shall erect a sign(s) identifying the Project Site as being open to the public and as having been purchased with funds from FCT and FCT Recipient.

IV. OBLIGATIONS INCURRED BY FCT RECIPIENT AS A RESULT OF BOND PROCEEDS BEING UTILIZED TO PURCHASE THE PROJECT SITE.

1. If the Project Site is to remain subject, after its acquisition by the State and the FCT Recipient, to any of the below listed activities or interests, the FCT Recipient shall provide at least 60 days written notice of any such activity or interest to FCT prior to the activity taking place, and shall provide to FCT such information with respect thereto as FCT reasonably requests in order to evaluate the legal and tax consequences of such activity or interest:

a. any lease of any interest in the Project Site to a non-governmental person or organization;

b. the operation of any concession on the Project Site to a non-governmental person or organization;

c. any sales contract or option to buy things attached to the Project Site to be severed from the Project Site, with a non-governmental person or organization;

d. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;

e. a management contract of the Project Site with a non-governmental person or organization; and

f. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

2. FCT Recipient agrees and acknowledges that the following transaction, events, and circumstances may not be permitted on the Project Site as they may have negative legal and tax consequences under Florida law and federal income tax law:

a. a sale of the Project Site or a lease of the Project Site to a non-governmental person or organization;

b. the operation of a concession on the Project Site by a non-governmental person or organization;

c. a sale of things attached to the Project Site to be severed from the Project Site to a non-governmental person or organization;

d. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of bonds from which the disbursement is to be made;

e. any use of the Project Site by non-governmental persons other than in such person's capacity as a member of the general public;

f. a management contract of the Project Site with a non-governmental person or organization; and

g. such other activity or interest as may be specified from time to time in writing by FCT to the FCT Recipient.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE FCT RECIPIENT AND OTHER GOVERNMENTAL BODIES, NOT FOR PROFIT ENTITIES, OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE FCT RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

V. CONDITIONS THAT ARE PARTICULAR TO THE PROJECT SITE AS A RESULT OF THE FCT APPROVED MANAGEMENT PLAN.

1. The FCT Recipient shall ensure that the public has adequate access to the Project Site for resource-based outdoor recreation to the extent that the Project Sites's natural resources are not adversely affected.

2. The timing and extent of a vegetative survey for the Project Site shall be as specified in the management plan to determine the measures the FCT Recipient must take to restore and/or preserve the Project Site.

3. The FCT Recipient shall ensure the preservation and proper management of the native vegetative communities occurring on the Project Site, particularly the xeric oak, dry prairie, hardwood hammock, and longleaf pine communities.

4. The FCT Recipient shall provide to FCT a detailed mitigation plan to restore the degraded wetland and former agricultural areas. An annual status summary on the wetland and upland mitigation activities, including an accounting of the mitigation credits that have been issued which relate to the Project Site, must be provided in the annual report.

5. The Project Site shall be managed in a manner that will optimize habitat conditions for the listed wildlife species that utilize or could potentially utilize the Project Site.

6. The FCT Recipient shall ensure that the surface water resources occurring on the Project Site shall be incorporated into the planned outdoor recreational facilities.

7. Wildlife observation facilities, hiking trails, and environmental education programs shall be incorporated into the Project Site management plan to the extent that such facilities and programs do not interfere with restoration efforts or adversely affect the natural resources occurring on the site.

THIS GRANT AWARD AGREEMENT embodies the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Witness:

Janet L. Carr
Witness Name: JANET L. CARR
Arlene Arbiter
Witness Name: ARLENE ARBITER

ORANGE COUNTY, a political
subdivision of the
State of Florida,
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: Tom Staley
Its: VICE CHAIRMAN FOR THE COUNTY CHAIRMAN

Date: MAR 29 1994

Attest: [Signature]
Clerk

Accepted as to Legal Form and
Sufficiency:

Date: [Signature]

Witness:

Darrell K. Kurtz
Witness Name: DARRELL K. KURTZ
Rebecca H. Duffy
Witness Name: REBECCA H. DUFFY

OSCEOLA COUNTY, a political
subdivision of the
State of Florida,
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: Chuck Summitt
Its: Vice Chairman

Date: 3/28/94

Attest: [Signature]
Clerk

~~Accepted as to Legal Form and~~
~~Sufficiency~~

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Date: _____

FOR THE USE AND RELIANCE
OF OSCEOLA COUNTY ONLY
APPROVED AS TO FORM
3-29 1994

Neal D. Bowen
NEAL D. BOWEN
COUNTY ATTORNEY

FLORIDA COMMUNITIES TRUST

JANE R. BASS
Witness Name:

JANE R. BASS

Howard Douglas
Witness Name:

HOWARD DOUGLAS

Linda Loomis Shelley, Chair

Date:

March 25, 1994

Accepted as to Legal Form and
Sufficiency:

Ann J. Wild
Ann J. Wild, Trust Counsel

Date:

3-23-94

OR Bk 4721 Pg 2142
Orange Co FL 4826148

STATE OF FLORIDA
COUNTY OF LEON

25th The foregoing instrument was acknowledged before me this
day of March, 1994, by LINDA LOOMIS SHELLEY, as Chair of the Florida Communities Trust. She is personally known
to me. AKHS

Jane R. Bass
Notary Public

Print Name:

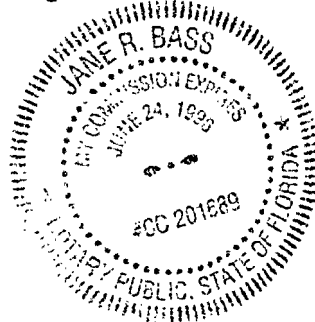
Jane R. Bass

Commission No.

ACC 211689

My Commission Expires:

6/24/96



STATE OF FLORIDA
COUNTY OF OSCEOLA

The foregoing instrument was acknowledged before me this
28th day of March, 1994, by Chuck Dunnick,
as Vice Chairman. He ~~is~~ is personally known to
me.

Beverly G. Downing
Notary Public
Print Name: _____
Commission No. _____
My Commission Expires: _____

BEVERLY G. DOWNING
Notary Public, State of Florida
My Commission Expires June 26, 1994
Commission #CC011804

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me this
29th day of March, 1994, by Tom Haley,
as BCC Vice-Chairman. ~~He~~ She is personally known to
me.

Cynthia D. Samples
Notary Public
Print Name: CYNTHIA D. SAMPLES
Commission No. _____
My Commission Expires: _____

This instrument prepared by and
and should be returned to:
Ann J. Wild
Florida Communities Trust
2740 Centerview Drive
Tallahassee, FL 32399-2100

GAA/009/P1A
FIN/3-21-94

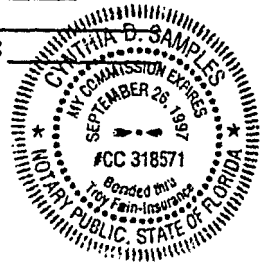


EXHIBIT A

LEGAL DESCRIPTION

All of the South $\frac{1}{2}$ of Section 27, Township 24 South, Range 31 East, less that portion thereof lying below the Meander line of Lake Hart established by U.S. Government Survey, Orange County, Florida.

All of Section 34, Township 24 South, Range 31 East.

The West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 35, Township 24 South, Range 31 East.

And also, all property, if any, located in South $\frac{1}{2}$ of Section 27, Township 24 South, Range 31 East, lying lakeward of the U.S. Government Survey Meander Line for Lake Hart. Any such property rights shall remain and be appurtenant to the legal title to the real property lying contiguous to such lakeward property.

All in the Orange County, Florida.

OR Bk 4721 Pg 2144
Orange Co FL 4826148

TOGETHER WITH

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 in Section 3, Township 25 South, Range 31 East according to the NEW AND CORRECTED MAP OF NARCOOSSEE, as filed and recorded in the Office of the Clerk of the Circuit court of Osceola County, Florida, in Plat Book 1, Pages 73 and 74, Public Records of Osceola County, Florida; Together with all land adjoining the above described lots formerly shown as roads on said NEW AND CORRECTED MAP OF NARCOOSSEE which have heretofore been vacated, abandoned, closed and discontinued as public roads.

All in Osceola County, Florida.

RECORDED & RECORD EXAMINED
Martha D. Haynes
County Commissioner, Orange Co., FL

HCS#3
APPROVED BY THE BOARD OF COUNTY
COMMISSIONERS AT ITS MEETING

JUL 12 1994 *jc/jms*

Orange Co FL 5192626
04/08/95 02:55:36pm
OR Bk 4876 Pg 1083
Rec 33.00

CONTRACT#94-CT-07-91-1A-J1-009

FLORIDA COMMUNITIES TRUST
P1A AWARD# 91-009-P1A

AMENDMENT TO GRANT AWARD AGREEMENT
and
MODIFICATION OF INTERAGENCY AGREEMENT
FOR SPLIT OAK MITIGATION PARK

THIS AMENDMENT to Grant Award Agreement ("Agreement") is entered into this 16 day of March, 1995, by and between FLORIDA COMMUNITIES TRUST ("FCT") a nonregulatory agency within the State of Florida Department of Community Affairs, and ORANGE COUNTY, a political subdivision of the State of Florida and OSCEOLA COUNTY, a political subdivision of the State of Florida (hereinafter jointly referred to as "FCT Recipient").

THIS MODIFICATION of Interagency Agreement for Split Oak Mitigation Park ("Interagency Agreement") is entered into this 27th day of FEBRUARY, 1995 by and between ORANGE COUNTY, a political subdivision of the State of Florida ("Orange"), OSCEOLA COUNTY, a political subdivision of the State of Florida ("Osceola"), and FLORIDA GAME AND FRESHWATER FISH COMMISSION, a state agency existing under the Florida Constitution ("GFC").

WHEREAS, the Agreement imposed certain terms, conditions and restrictions on the use of the lands described therein and was dated April 4, 1994, and recorded in Official Records Book 4721, Page 2133, of the Public Records of Orange County, Florida, and recorded in Official Records Book 1180, Page 0078, of the Public Records of Osceola County Florida;

WHEREAS, the Interagency Agreement dated FEBRUARY 23, 1994 provided for the collection of environmental mitigation fees and the conveyance of conservation easements on the lands described therein; and

WHEREAS, the parties hereto desire to amend the Agreement and to modify the Interagency Agreement to exclude certain parcels of lands described herein from the provisions of the Interagency Agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

GAAAMD/009/P1A
FIN/5-5-94

PLEASE RECORD AND RETURN TO SHERRY WILLIAMS HOOPER, ORANGE COUNTY DIVISION OF HEALTH AND COMMUNITY SERVICES, 2100 East Michigan Street, Orlando, FL 32806

1. The Grant Award Agreement is hereby amended to add Section V. 8 to read as follows:

8. Those parcels of the Project Site as described in Exhibit "A" attached hereto and made a part hereof shall not be subject to collection of environmental mitigation fees or conveyance of conservation easements from FCT Recipient to the Florida Game and Freshwater Fish Commission under the terms of the Interagency Agreement for Split Oak Mitigation Park.

2. The last paragraph of Item 1.(A) of the Interagency Agreement for Split Oak Mitigation Park is hereby replaced, revised and superseded by the following:

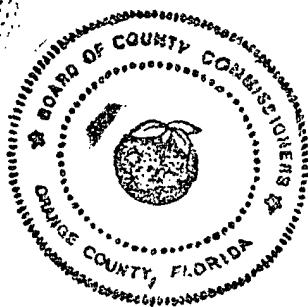
FCT uplands and wetlands are those areas described in Exhibit "A" attached to the Amendment to Grant Award Agreement and Modification of Interagency Agreement for Split Oak Mitigation Park and shall not be available for sale as mitigation.

3. The terms of this Amendment and Modification shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

4. Except as expressly set forth herein, the Grant Award Agreement and the Interagency Agreement for Split Oak Mitigation Park shall remain in full force and effect and are hereby ratified and confirmed as of the Amendment date.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment and Modification.

Witness:



Witness Name: Sharon De Sha

Witness Name: Sharon De Sha

OR Bk 4876 Pg 1084
Orange Co FL 5192626

ORANGE COUNTY, a political
subdivision of the State of
Florida

BY ITS BOARD OF COUNTY
COMMISSIONERS

By: Tom Staley

Its Vice Chairman FOR THE COUNTY CHAIRMAN

Attest: [Signature]

Asst. Deputy Clerk

Accepted as to Legal Form and
Sufficiency: [Signature]

Date: 15 JUN 94

GAAAMD/009/P1A

FIN/5-5-94

Witness:

OSCEOLA COUNTY, a political
subdivision of the State of
Florida
BY ITS BOARD OF COUNTY
COMMISSIONERS

Witness Name: _____

By: [Signature]

Its: _____

Attest: [Signature]

Clerk

Witness Name: _____

FOR THE USE AND RELIANCE
OF OSCEOLA COUNTY ONLY
APPROVED AS TO FORM

10-3 1994

[Signature]
NEAL D. BOWEN
COUNTY ATTORNEY

FLORIDA GAME AND FRESHWATER
COMMISSION

By: [Signature]
Executive Director, Florida
Game and Freshwater Fish
Commission

Accepted as to Legal Form and
Sufficiency: [Signature]
Date: 2/21/95

OR Bk 4876 Pg 1085
Orange Co FL 5192626

FLORIDA COMMUNITIES TRUST

By: [Signature]
for Linda Loomis Shelley,
Chair

Accepted as to Legal Form and
Sufficiency: [Signature]
Date: 3-9-95

This instrument was prepared by Ann Wild, General Counsel for Florida Communities
Trust, 2740 Centerview Drive, Tallahassee, FL 32399-2100

GAAAMD/009/P1A
FIN/5-5-94

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 14th
day of July, 1994, by Tom Staley, as
vice Chairman. He/She is personally known to me.



TRISHA M. GRENELL
MY COMMISSION # CC316826 EXPIRES
September 16, 1997
BONDED THRU TROY FAIR INSURANCE, INC.

Trisham. Grenell
Notary Public

Print Name: Trisha M. Grennell

Commission No. CC316826

My Commission Expires: September 16, 1997

STATE OF FLORIDA
COUNTY OF OSCEOLA

The foregoing instrument was acknowledged before me this 3rd
day of October, 1994, by Charles Owen, as
Chairman. He/She is personally known to me.

NANCY DAVID
Notary Public State of Florida
My Comm. Exp. Jan 16, 1995
Commission # CC078010

Nancy David
Notary Public

Print Name: Nancy David

Commission No. CC078010

My Commission Expires: 1-16-95

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 27
day of February, 1994, by William C. Sumner, as
Asst. Dir. Director of the Florida Game and Freshwater Fish
Commission. He/She is personally known to me.



ROSEMARY MARA
MY COMMISSION # CC 153102 EXPIRES
October 20, 1995
BONDED THRU TROY FAIR INSURANCE, INC.

Rosemary Mara
Notary Public

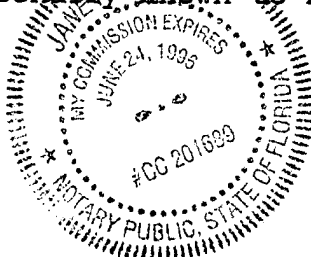
Print Name: _____

Commission No. _____

My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 16th
day of MARCH, 1994, by MARY ANNE Price, as
Acting Chairman of Florida Communities Trust. He/She is
personally known to me.



Jane R. Bass
Notary Public

Print Name: Jane R. Bass

Commission No. # CC 201689

My Commission Expires: 6/24/95

GAAAMD/009/P1A
FIN/5-5-94

EXHIBIT "A"

A PARCEL OF LAND LYING IN SECTION 27, TOWNSHIP 24 SOUTH, RANGE 31 EAST; AND IN SECTION 34, TOWNSHIP 24 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 34 FOR A POINT OF REFERENCE; THENCE RUN SOUTH 1°18'44" EAST, ALONG THE WEST LINE OF SAID SECTION 34, A DISTANCE OF 548.80' TO THE POINT OF BEGINNING; THENCE RUN NORTH 50°58'13" EAST, 293.24'; THENCE RUN NORTH 0°49'58" WEST, 983.60'; THENCE RUN NORTH 90°00'00" EAST, 1258.48'; THENCE RUN SOUTH 3°41'44" EAST, 2110.03'; THENCE RUN SOUTH 42°26'03" EAST, 1240.19'; THENCE RUN SOUTH 23°41'32" EAST, 532.68'; THENCE RUN SOUTH 0°04'43" EAST, 523.30'; THENCE RUN SOUTH 43°30'50" WEST, 730.53'; THENCE RUN SOUTH 90°00'00" WEST, 662.40'; THENCE RUN NORTH 0°00'00" EAST, 475.89'; THENCE RUN NORTH 44°39'47" EAST, 345.52'; THENCE RUN NORTH 6°46'03" WEST, 488.39'; THENCE RUN NORTH 48°31'29" WEST, 509.58'; THENCE RUN NORTH 68°02'54" WEST, 645.91'; THENCE RUN NORTH 0°51'35" WEST, 451.54'; THENCE RUN NORTH 65°20'55" EAST, 790.25'; THENCE RUN NORTH 77°53'12" WEST, 742.03'; THENCE RUN NORTH 61°32'36" WEST, 770.69' TO SAID WEST LINE OF SECTION 34; THENCE RUN NORTH 1°18'44" WEST ALONG SAID WEST LINE, 304.15' TO THE POINT OF BEGINNING.

AND A PARCEL OF LAND LYING IN SECTION 34, TOWNSHIP 24 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 34 FOR A POINT OF REFERENCE; THENCE RUN SOUTH 89°50'40" WEST, ALONG THE SOUTH LINE OF SAID SECTION 34, A DISTANCE OF 1089.16' TO A POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°50'40" WEST, ALONG SAID SECTION LINE, A DISTANCE OF 1275.16'; THENCE RUN NORTH 0°45'24" WEST, 379.89'; THENCE RUN NORTH 70°24'18" EAST, 155.14'; THENCE RUN SOUTH 55°04'21" EAST, 351.79'; THENCE RUN SOUTH 41°10'37" EAST, 271.29'; THENCE RUN NORTH 19°56'52" EAST, 379.52'; THENCE RUN NORTH 14°21'35" WEST, 499.16'; THENCE RUN NORTH 6°15'00" WEST, 738.21'; THENCE RUN NORTH 64°07'22" EAST, 195.40'; THENCE RUN NORTH 90°00'00" EAST, 291.76'; THENCE RUN SOUTH 48°19'14" EAST, 186.09'; THENCE RUN SOUTH 14°25'49" EAST, 982.47'; THENCE RUN SOUTH 10°14'47" WEST, 616.85' TO THE POINT OF BEGINNING.

AND A PARCEL OF LAND LYING IN SECTION 3, TOWNSHIP 25 SOUTH, RANGE 31 EAST, OSCEOLA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 3 FOR A POINT OF REFERENCE; THENCE RUN SOUTH 89°50'40" WEST, ALONG THE NORTH LINE OF SAID SECTION 3, A DISTANCE OF 1143.68' TO

THE POINT OF BEGINNING; THENCE RUN SOUTH 47°00'02" EAST, 612.20'; THENCE RUN SOUTH 44°05'56" EAST, 751.48'; THENCE RUN SOUTH 4°18'02" WEST, 264.61'; THENCE RUN SOUTH 54°30'22" WEST, 297.81'; THENCE RUN SOUTH 37°20'47" WEST, 435.79'; THENCE RUN SOUTH 72°02'17" WEST, 422.83'; THENCE RUN NORTH 77°22'10" WEST, 420.80'; THENCE RUN SOUTH 73°14'07" WEST, 504.78'; THENCE RUN NORTH 88°48'53" WEST, 350.58'; THENCE RUN NORTH 81°09'27" WEST, 248.19'; THENCE RUN NORTH 68°26'54" WEST, 119.13'; THENCE RUN NORTH 43°32'09" WEST, 179.86'; THENCE RUN NORTH 35°15'43" WEST, 106.33'; THENCE RUN NORTH 25°10'57" WEST, 137.06'; THENCE RUN NORTH 9°23'14" WEST, 95.11'; THENCE RUN NORTH 4°02'22" EAST, 178.59'; THENCE RUN NORTH 40°55'22" EAST, 662.17'; THENCE RUN NORTH 26°36'21" EAST, 251.18'; THENCE RUN NORTH 9°01'30" EAST, 329.93'; THENCE RUN NORTH 10°35'10" EAST, 122.69'; THENCE RUN NORTH 33°54'44" EAST, 57.23' TO SAID NORTH LINE OF SECTION 3; THENCE RUN NORTH 89°50'40" EAST, 1152.76' TO THE POINT OF BEGINNING.

AND A PARCEL OF LAND LYING IN SECTION 3, TOWNSHIP 25 SOUTH, RANGE 31 EAST, OSCEOLA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 3 FOR A POINT OF REFERENCE; THENCE RUN NORTH 00°06'49" WEST, ALONG THE EAST LINE OF SAID SECTION 3, A DISTANCE OF 16.50' TO THE NORTH RIGHT-OF-WAY LINE OF CYRILS DRIVE AND THE POINT OF BEGINNING; THENCE RUN SOUTH 89°59'03" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, 1023.18'; THENCE RUN NORTH 29°39'09" WEST, 1694.05'; THENCE RUN NORTH 22°05'21" WEST, 957.99'; THENCE RUN NORTH 6°01'34" EAST, 378.36'; THENCE RUN NORTH 66°18'50" EAST, 250.28'; THENCE RUN SOUTH 78°05'33" EAST, 352.47'; THENCE RUN SOUTH 42°43'54" EAST, 508.69'; THENCE RUN NORTH 75°26'22" EAST, 295.46'; THENCE RUN NORTH 65°30'14" EAST, 224.38'; THENCE RUN SOUTH 68°41'18" EAST, 209.14'; THENCE RUN SOUTH 6°20'31" EAST, 275.60'; THENCE RUN SOUTH 18°48'21" WEST, 481.15"; THENCE RUN SOUTH 87°02'52" EAST, 414.43'; THENCE RUN SOUTH 28°49'05" EAST, 231.58'; THENCE RUN NORTH 89°53'12" EAST, 173.71' TO SAID EAST LINE OF SECTION 3; THENCE RUN SOUTH 00°06'49" EAST, ALONG SAID EAST LINE, 1528.06' TO THE POINT OF BEGINNING.

AND A PARCEL OF LAND LYING IN SECTION 27, TOWNSHIP 24 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 27 FOR A POINT OF REFERENCE; THENCE RUN NORTH 3°45'19" EAST, ALONG THE EAST LINE OF SAID SECTION 27, A DISTANCE OF 397.90' TO A POINT OF BEGINNING; THENCE RUN NORTH 70°07'43" WEST, 2124.44'; THENCE RUN NORTH 1°36'37" WEST, 727.35'; THENCE RUN SOUTH 25°34'58" EAST, 246.37'; THENCE RUN SOUTH 33°26'53" EAST, 154.18'; THENCE RUN SOUTH 68°03'41" EAST, 135.79'; THENCE RUN NORTH 58°59'36" EAST, 157.57'; THENCE RUN NORTH 52°42'32" EAST,

244.28'; THENCE RUN NORTH 64°52'58" EAST, 93.61'; THENCE RUN NORTH 87°44'58" EAST, 39.70'; THENCE RUN NORTH 46°50'06" EAST, 83.00'; THENCE RUN NORTH 5°09'29" EAST, 109.79'; THENCE RUN NORTH 19°53'43" EAST, 136.85'; THENCE RUN NORTH 35°43'03" EAST, 430.45'; THENCE RUN NORTH 86°54'38" EAST, 125.15'; THENCE RUN SOUTH 17°24'34" EAST, 123.72'; THENCE RUN SOUTH 68°23'03" EAST, 180.13'; THENCE RUN SOUTH 40°13'48" EAST, 204.65'; THENCE RUN NORTH 37°32'49" EAST, 213.99'; THENCE RUN NORTH 3°04'43" EAST, 272.56'; THENCE RUN NORTH 34°40'14" EAST, 94.67'; THENCE RUN SOUTH 86°41'39" EAST, 242.57'; THENCE RUN SOUTH 38°27'30" EAST, 173.39' TO SAID EAST LINE OF SECTION 27; THENCE RUN SOUTH 3°45'19" WEST, 2002.67' ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

DR Bk 4876 Pg 1089
Orange Co FL 5192626

Record Verified - Martha D. Haynie

RESOLUTION
of the
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
regarding
**SUPPORT OF THE CENTRAL FLORIDA EXPRESSWAY (CFX)
AUTHORITY PREFERRED ALTERNATIVE FOR THE
OSCEOLA PARKWAY EXTENSION PROJECT
DEVELOPMENT AND ENVIRONMENT (PD&E) STUDY RE-
EVALUATION AND PETITIONING THE FLORIDA
COMMUNITIES TRUST FOR A MODIFICATION OF THE
GRANT AWARD AGREEMENT, INTERAGENCY AGREEMENT,
AND MANAGEMENT PLAN**

Resolution No. 2019-M-50

WHEREAS, Orange County approved an Interagency Agreement for Split Oak Forest Mitigation Park Project (Project) (now known as Split Oak Forest Wildlife and Environmental Area (Split Oak)) with Osceola County and the Florida Game and Freshwater Fish Commission (now known as the Florida Fish and Wildlife Conservation Commission) in December 1991 (Interagency Agreement); and,

WHEREAS, the Interagency Agreement resulted in an application to the Florida Communities Trust (FCT), which resulted in the award of loans and grants to both counties (FCT Recipients) to acquire certain properties for conservation and established funds to help manage the proposed Project; and,

WHEREAS, the FCT Recipients were required to place conservation easements over their respective portions of the Project; and,

WHEREAS, Split Oak is managed by the Florida Fish and Wildlife Conservation Commission, who was required to develop and adopt a Management Plan; and,

WHEREAS, the Grant Award Agreement was issued to Orange and Osceola counties in April 1994 and provides that the Grant Award Agreement may be amended at any time, if agreed to by both the FCT Recipients and FCT; and

WHEREAS, Section 704.06(11), Florida Statutes, provides that the owner of a conservation easement over land may allow for the operation of linear facilities, including public transportation corridors; and,

WHEREAS, Rule 62-818.015, Florida Administrative Code, acknowledges that the FCT “periodically receives requests for Management Plan modifications to allow linear facilities and related appurtenances on the Trust Project Site” and provides the process for requesting those modifications; and,

WHEREAS, the Osceola County Expressway Authority (OCX) completed the original PD&E Study for an extension of Osceola Parkway that had significant impacts to the environment in May 2017, including portions of the project that were located in Orange County’s portion of the conservation easement; and

WHEREAS, CFX completed the Concept, Feasibility & Mobility Studies for the four OCX Master Plan segments, including Poinciana Parkway Extension, Southport Connector Expressway, Northeast Connector Expressway and Osceola Parkway Extension in March 2018; and

WHEREAS, the CFX Board voted to move forward with the PD&E Studies for the Poinciana Parkway Extension and the Osceola Parkway Extension Re-evaluation in March 2018; and

WHEREAS, CFX, after evaluating all reasonable and foreseeable alternatives and receiving extensive public input, has identified a Preferred Alternative for the Osceola Parkway Extension project as part of the PD&E Re-evaluation study that no longer contains any direct impact to the conservation easement lands located in Orange County; and

WHEREAS, the CFX Preferred Alternative minimizes impacts to existing and planned residences and the environment in the area, and includes the use of approximately 60 acres, more or less, of the Split Oak Property located exclusively within Osceola County for linear facilities as part of the Osceola Parkway Extension project; and

WHEREAS, CFX has a signed agreement with certain landowners to place an additional 1,550 acres into conservation in which approximately 968 acres are located within Orange County and approximately 582 acres are located within Osceola County as part of the Osceola Parkway Extension project; and

WHEREAS, Orange County now petitions the FCT for a modification to the Interagency Agreement, Management Plan, and Grant Award Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Preferred Alternative. The County approves, based on the minimized impact to residences and the environment in the area, of the use of approximately 60 acres, more or less, of the Split Oak Property with such 60 acres located exclusively within Osceola County for linear facilities, for the Osceola Parkway Extension project.

Section 2. Florida Communities Trust. The County approves the submittal of a request to the Florida Communities Trust for the modification of the Interagency Agreement, Management Plan, and Grant Award Agreement to allow for the use of approximately 60 acres, more or less, of the Split Oak Property with such 60 acres located exclusively within Osceola County for linear facilities as part of the Osceola Parkway Extension project.

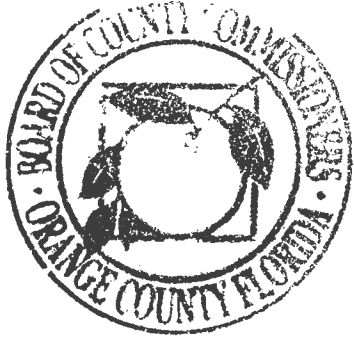
Section 3. Additional Conservation Lands. The approvals in Section 1, 2, and 5 are contingent on execution of an interagency agreement and adoption of a management plan, or modification of the existing Interagency Agreement and Management Plan, for the additional 968 acres to be placed into conservation in Orange County.

Section 4. Delegation to Staff. The County approves the delegation to staff for the coordination with Osceola County government and CFX for the submission described above to the Florida Communities Trust.

Section 5. Conveyance of Land. The County approves the conveyance, contingent upon approval by the Florida Communities Trust and the Osceola County Board of County Commissioners, of any and all necessary easements to CFX required for the use of the approximately 60 acres, more or less, of the Split Oak Property with such 60 acres located exclusively within Osceola County for a linear facility as part of the Osceola Parkway Extension project.

Section 6. Effective Date. This Resolution shall take effect immediately upon its adoption.

ADOPTED THIS ____ DAY OF DEC 17 2019, 20__.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Brynn Brooks*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Craig A. Stopynka*
for Deputy Clerk



December 13, 2019

Memo

To: Split Oak Committee Members

From: Patrick Brackins

CC: Katie Smith

Re: Research Questions

Committee Members-

At the December 6, 2019, meeting of the Split Oak Committee, general counsel was tasked with researching and answering three questions, which are as follows:

- 1) Is the State of Florida permitted to take conservation land via eminent domain?

ANSWER: No. However, that prohibition is not applicable to traffic corridors, linear facilities, and telecommunications facilities.

A conservation easement, similar to the Grant Award Agreement for Split Oaks, is “a right or interest in real property which is appropriate to retaining land or water areas predominately in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses; and which prohibits or limits” a number of activities and development on the land as set forth in FLA. STAT. 704.06(1)(a)-(h). Pursuant to FLA. STAT. § 704.06(2), conservation easements generally may not be acquired “**by condemnation or by other exercise of the power of eminent domain.**” A copy of Fla. Stat. 704.06 is attached hereto as **Exhibit A**.

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T: (407) 622-1772 W: WWW.SHEPARDFIRM.COM

However, the conservation easement statute permits owners of land burdened with a conservation easement to negotiate for the sale or utilization of the encumbered land “for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.” Fla. Stat. § 704.06(11). Furthermore, the statute expressly excepts the above activities, purposes, and uses from its eminent domain prohibition. *Id.* Accordingly, while conservation easements are generally not subject to eminent domain, they do not prohibit the Department from taking lands burdened by easements for the purpose of constructing transportation corridors. On the other hand, commercial development would not be excluded from prohibition on eminent domain.

- 2) Is it possible to draft language in the charter amendment that would allow the County to settle eminent domain cases without weakening the protections provided?

ANSWER: Yes, because of the protections afforded by the conservation easement statute, the property is only subject to eminent domain for limited public purposes. Therefore, any eminent domain action on the property by the state or federal government should be limited to those public purposes provided in Fla. Stat. 704.06(11).

- 3) Can we include a provision that requires two successful, successive referendums before allowing the Split Oaks charter protections to be removed from the Charter (assuming they pass)?

ANSWER: No.

Our research has not located any county or municipal charters in Florida which contain double referendum requirements - holding two elections - before a charter may be amended. To the contrary, Florida’s Constitution, Statutes, and case law indicate that only a single referendum is required to amend a charter and such referendum may only be held when provided for by act of the Legislature. Article VI § 5(a) of the Florida Constitution provides that “special elections and referenda shall be held as provided by law.” *Id.* (emphasis added). “As provided by law” means an enactment by the Legislature – not any act of a county or city. *Grapeland Heights Civic Ass’n v. Miami*, 267 So. 2d 321, 324 (Fla. 1972); *see also* AGO 2009-22 (opining that the “term ‘law’ or ‘by law’ means an enactment of the State Legislature, not a municipality, county, or any other political body.”). Thus, the Florida Constitution asks the Legislature to decide when referendums may be exercised. The Legislature provides that county charters must be

adopted by referendum and then may only be amended by referendum. “Such charter, once adopted by the electors, may be amended only by the electors of the county.” FLA. STAT. § 125.64(2). **Accordingly, as the Florida Constitution permits referenda only as provided by the Legislature, and the Legislature has determined that a county charter may be amended by a referendum, a charter amendment requiring *two referendums* before an amendment is effective would appear to violate the Florida Constitution and the authority given to the County to amend its charter under FLA. STAT. 125.64(2).**

Fla. Stat. § 704.06

Current through the 2019 Session of the Florida Legislature.

LexisNexis® Florida Annotated Statutes > Title XL. Real and Personal Property. (Chs. 689 — 723) > Chapter 704. Easements (§§ 704.01 — 704.08)

§ 704.06. Conservation easements; creation; acquisition; enforcement.

(1) As used in this section, “conservation easement” means a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits any or all of the following:

- (a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.
- (b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
- (c) Removal or destruction of trees, shrubs, or other vegetation.
- (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.
- (e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (g) Acts or uses detrimental to such retention of land or water areas.
- (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

(2) Conservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking. Such easements may be acquired in the same manner as other interests in property are acquired, **except by condemnation or by other exercise of the power of eminent domain**, and shall not be unassignable to other governmental bodies or agencies, charitable organizations, or trusts authorized to acquire such easements, for lack of benefit to a dominant estate.

(3) Conservation easements may be acquired by any governmental body or agency or by a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving sites or properties of historical, architectural, archaeological, or cultural significance.

(4) **Conservation easements shall run with the land and be binding on all subsequent owners of the servient estate. Notwithstanding the provisions of s. 197.552, all provisions of a conservation easement shall survive and are enforceable after the issuance of a tax deed. No conservation easement shall be unenforceable on account of lack of privity of contract or lack of benefit to particular land or on account of the benefit being assignable. Conservation easements may be enforced by injunction or proceeding in equity or at law, and shall entitle the holder to enter the**

land in a reasonable manner and at reasonable times to assure compliance. A conservation easement may be released by the holder of the easement to the holder of the fee even though the holder of the fee may not be a governmental body or a charitable corporation or trust.

(5) All conservation easements shall be recorded and indexed in the same manner as any other instrument affecting the title to real property.

(6) The provisions of this section shall not be construed to imply that any restriction, easement, covenant, or condition which does not have the benefit of this section shall, on account of any provision hereof, be unenforceable.

(7) Recording of the conservation easement shall be notice to the property appraiser and tax collector of the county of the conveyance of the conservation easement.

(8) Conservation easements may provide for a third-party right of enforcement. As used in this section, third-party right of enforcement means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, or charitable corporation or trust as described in subsection (3), which although eligible to be a holder, is not a holder.

(9) An action affecting a conservation easement may be brought by:

- (a) An owner of an interest in the real property burdened by the easement;
- (b) A holder of the easement;
- (c) A person having a third-party right of enforcement; or
- (d) A person authorized by another law.

(10) The ownership or attempted enforcement of rights held by the holder of an easement does not subject the holder to any liability for any damage or injury that may be suffered by any person on the property or as a result of the condition of the property encumbered by a conservation easement.

(11) Nothing in this section or other provisions of law shall be construed to prohibit or limit the owner of land, or the owner of a conservation easement over land, to voluntarily negotiate the sale or utilization of such lands or easement for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances, nor shall this section prohibit the use of eminent domain for said purposes as established by law. In any legal proceeding to condemn land for the purpose of construction and operation of a linear facility as described above, the court shall consider the public benefit provided by the conservation easement and linear facilities in determining which lands may be taken and the compensation paid.

(12) An owner of property encumbered by a conservation easement must abide by the requirements of chapter 712 or any other similar law or rule to preserve the conservation easement in perpetuity.

(13) A conservation easement agreement may include provisions which allow agricultural activities, including, but not limited to, silviculture, forestry management, and livestock grazing, if such activity is a current or historic use of the land placed under easement. If such agricultural activities are allowed under the terms of the agreement, such activities must be conducted in accordance with applicable best management practices adopted by the Department of Agriculture and Consumer Services. This subsection does not restrict or diminish the authority granted in a previous conservation easement agreement for forest management and livestock grazing as a compatible use on lands subject to a conservation easement.

History

S. 1, ch. 76-169; s. 1, ch. 86-44; s. 74, [ch. 93-206](#); s. 17, [ch. 97-164](#); s. 7, [ch. 2007-204](#), eff. July 1, 2007; s. 3, [ch. 2009-157](#), eff. June 10, 2009; s. 5, [ch. 2016-88](#), eff. July 1, 2016.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

April 20, 2020

Committee Recommendation

Citizen-Initiated Charter and Ordinance Amendment Process Committee

Committee Members:

Soraya Smith, Chair
Jack Douglas
Angela Melvin
Jeffrey A. Miller
Dotti Wynn

Summary of Recommendation

On October 22, 2019, Member Samuel Vilchez Santiago submitted a proposal to the 2020 Orange County Charter Review Commission (the "CRC") to establish a subcommittee to evaluate (1) lowering the 10% per district signature threshold for a citizen-initiated charter amendment; and (2) lowering the 7% per district signature threshold for a citizen initiated ordinance amendment, enactment or repeal. Generally, the proposal sought establishment of a subcommittee to study Sections 601 and 602 of the Orange County Charter and to make appropriate recommendations to the CRC.

On November 6, 2019, following a motion and second by Members Vilchez Santiago and Stoccardo, respectively, the CRC voted 8 to 5 to establish the Citizen-Initiated Charter and Ordinance Amendment Process as an evaluation topic by the CRC. By a vote of 12 to 1, the CRC voted to establish the Citizen-Initiated Charter and Ordinance Amendment Process Subcommittee to study this topic and make appropriate recommendations to the full CRC.

Beginning on November 20, 2019, the Citizen-Initiated Charter and Ordinance Amendment Process Committee (the "Committee") held six public meetings to hear public input and consider the proposal. The Committee reviewed: Member Vilchez Santiago's proposal; the work product created by and conclusions of the 2016 Orange County Charter Review Commission, whose successful 2016 Charter amendments are under review; a memorandum and timeline prepared by the Orange County Supervisor of Elections; and

memorandums prepared by the General Counsel. The Committee heard from members of the public and invited guests, including Orange County Commissioner Emily Bonilla, Emmett O'Dell, Co-President of the League of Women Voters of Orange County, Dr. Gloria Pickar, and Member Vilchez Santiago.

On January 8, 2020, the Committee voted 5-0 to recommend to the CRC that it take no action on Member Vilchez Santiago's proposal to lower the threshold for petition signature percentages for placing citizen's initiated charter amendments or ordinance amendments, enactments or repeals on the ballot. The Committee further voted 5-0 to request authority from the full CRC to look at all aspects of the current 180-day timeline restrictions contained in the Charter. On January 9, 2020, the CRC received the Committee's request and, on February 5, 2020, the full CRC voted to approve the Committee's request. On February 19, 2020, the Committee voted 3 to 1 to rescind its earlier decision to recommend no action be taken with respect to the percentages necessary to place citizen's initiated charter amendments and ordinance enactments, amendments, or repeals on the ballot. On March 11, 2020, the Committee agreed not to further pursue the petition threshold percentages currently contained in the Charter.

On April 16, 2020, based upon the information and comments received, the Committee voted unanimously to recommend the full CRC adopt a Ballot Title, Summary and Text amendment prepared by General Counsel to suspend the one hundred and eighty (180) day time period in the Charter for obtaining necessary signatures pending completion of the mandatory reviews and procedures outlined in Sec. 602.E of the Charter, and to set a ten (10) day deadline for the Supervisor of Elections to provide the 1% notification to the Orange County Board of County Commissioners, the Orange County Comptroller and the Legal Review Panel under Sec. 602.E.(1) of the Charter in order to give petitioners the benefit of a full one hundred and eighty (180) days to gather necessary signatures.

Reasons for Recommendation

1. The 2016 Charter Amendment Approved by Orange County Voters Does Not Provide Petitioners With Sufficient Time to Gather Signatures.

While the intent of the 2016 Charter Amendments appears to have been to give prospective petitioners a full one hundred and eighty (180) days to gather necessary signatures, in practice, the mandatory review of proposals by the Supervisor of Elections, the Comptroller, and the Legal Review Panel takes up much of that time, during which signatures cannot continue to be gathered. This problem is easily remedied by suspending the one hundred and eighty (180) day time frame while the mandatory reviews are undertaken and by providing a deadline for the Supervisor of Elections to notify the identified bodies when the petitioner has reached the 1% threshold for required signatures.

2. Insufficient Information Establishing that the Percentage of Required Signatures in Each District is Unduly Burdensome.

While the Committee received comments asserting that the percentage of signatures required under the 2016 Charter Amendment is too restrictive, Orange County voters overwhelming approved those requirements. The Committee did not receive sufficient information showing that lowering the percentage thresholds is necessary or warranted at this time.

Argument Against Recommendation

1. Without Easing the Percentage of Required Signatures in Each District, the Proposal Does Not Address the Problem.

Some invited guests argued that the main problem with the 2016 Charter Amendments are the percentages of signatures required in each district. While suspending the one hundred and eighty (180) days helps prospective petitioners, it does not address what some believed is the main problem.

Committee Recommendation

After careful consideration of the information presented, Member Miller made a motion, which was seconded by Member Wynn, to recommend that the attached draft Ballot Title, Summary and Text of the proposed charter amendment be forwarded to the full CRC for its consideration. The motion carried unanimously. Based on the foregoing, **the Committee recommends that the attached draft amendment to the Orange County Charter, including Ballot Title and Summary, be made with respect to the approved evaluation topic of Citizen-Initiated Charter and Ordinance Amendment Process.**

Exhibits:

Proposed Amendment, Ballot Title and Summary

All Committee Minutes

All legal memoranda provided by the General Counsel

Member Vilchez Santiago's proposal

November 6, 2019 Correspondence from the League of Women Voters of Orange County

January 24, 2020 Memorandum from Chair Soraya Smith to the 2020 Charter Review Commission

Ballot Title, Summary and Proposed Amendment – Citizen Initiatives

A. Introduction.

This Charter amendment would suspend the one hundred and eighty (180) day time period for the gathering of petition signatures during the completion of the reviews and procedures required by Sec. 602.E. of the Charter and set a ten (10) day deadline for the Supervisor of Elections to provide the 1% notification to the County Commission, the Comptroller and Legal Review Panel under Sec. 602.E.(1) of the Charter. The intent is to give petitioners a full one hundred and eighty (180) days to gather the necessary signatures.

B. Ballot Proposal: The ballot title and question for Question #__ are as follows:

SUSPENDING TIME FOR GATHERING
PETITION SIGNATURES DURING
MANDATORY REVIEWS AND SETTING
DEADLINE FOR 1% NOTIFICATION

Shall the charter be amended by suspending the one hundred eighty (180) day time period for gathering signatures during mandatory reviews and procedures specified under Sec. 602.E. of the Charter and setting a ten (10) day deadline for the Supervisor of Elections to provide the 1% notification to the County Commission, the Comptroller and Legal Review Panel under Sec. 602.E.(1) of the Charter?

Comptroller estimated financial impact: _____.

_____ Yes

_____ No

C. Text Revisions: Article VI, Sec. 602.A. and Sec. 602.E.(1) of the Orange County Charter are amended as follows:

(Underline text is added to the charter).

Sec. 602. - Procedure for initiative and referendum.

A. *Initiation and overview of process.* The sponsor of an initiative petition shall register as a political committee as required by general law, and shall, prior to obtaining any signatures, submit the text of the proposed petition to the supervisor of elections, with the form on which signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form may be specified by ordinance. Concurrent with this submission, the sponsor of an initiative petition shall

prepare and submit translations of the ballot title and ballot summary into those languages required by law for placement on the ballot. Within fifteen (15) days after the aforementioned submittals, the supervisor of elections shall render a determination on the form on which signatures will be affixed. Each initiative petition shall embrace but one (1) subject and matter directly connected therewith. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after that date. The one hundred eighty day (180) period shall be suspended and shall not recommence until the completion of all reviews and procedures required by Sec. 602.E. (legal review, financial impact statement, revised petition, sufficiency determination by supervisor of elections and public hearing). In the event sufficient signatures are not submitted during that one-hundred-eighty-day period (as extended by any suspension of same during the reviews and procedures required by Sec. 602.E.), the petition drive shall be rendered null and void and none of the signatures may be carried over onto another petition. If sufficient signatures are obtained submitted during that one-hundred-eighty-day period, the supervisor of elections shall within thirty (30) days thereafter verify the signatures thereon and submit a written report to the board.

E. Legal review, financial impact; public hearing.

1. *One (1) percent threshold.* Upon verification by the supervisor of elections that a petition has been signed by at least one (1) percent of the county electors in each commission district, the supervisor of elections shall have ten (10) days to so notify the board, the comptroller and the legal review panel.

D. Effective Date. This amendment shall become effective upon passage, which is the date certified by the Supervisor of Elections and shall not require further enabling legislation by the Orange County Board of County Commissioners.

Financial Analysis and Impact:

Based on information provided by the Comptroller's Office, the cost of the proposed amendment is approximately _____, which represents _____.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Citizen-Initiated Charter and Ordinance Amendment Process Committee

November 20, 2019
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

Soraya Smith, Chair
Jack Douglas
Angela Melvin
Jeffrey A. Miller
Dotti Wynn
Clifford Shepard, CRC Attorney
Noelia Perez, Senior Minutes Coordinator

Invited Guest:

Emmett O'Dell

The organizational meeting of the Citizen-Initiated Charter and Ordinance Amendment Process Committee was held to identify related issues and to address any member questions.

Public Comment

The following persons addressed the committee:

- Emmett O'Dell
- Camille Evans

Invited Guest

Mr. O'Dell addressed the committee and provided his experience and perspective related to the history and current requirements of the citizen initiated process. Discussion ensued. CRC Attorney Shepard contributed to the discussion.

Background Information and Current Charter Provisions

Chair Smith asked CRC Attorney Shepard to provide an overview regarding the Background of Changes to Article VI of the Charter memo submitted prior to the meeting. CRC Attorney Shepard will provide a more in depth explanation at the next committee meeting. Discussion ensued.

Members Open Discussion

Chair Smith opened the floor for member discussion. Chair Smith referred to Member Santiago's Citizen-Initiated Charter and Ordinance Amendment Process Proposal as it relates to lowering the petition threshold count for citizen initiated Charter amendments and repeals and ordinance

amendments, enactments and repeals. Chair Smith reiterated the potential topics for further research included in Member Santiago's proposal.

Chair Smith explained that it would be valuable to receive information from the Supervisor of Elections as to what has occurred in the past. Member Miller provided remarks regarding the importance of reviewing the work product and conclusions of the 2016 CRC committee that studied this topic. CRC Attorney Shepard advised that he could provide a full copy of the report. Discussion ensued. CRC Attorney Shepard advised he would contact the Supervisor of Elections. Further discussion ensued.

Member Melvin questioned, in terms of invited guests, whether there are any groups of people who have ideas or would like to do citizen initiatives but the current process stopped them. Member Wynn suggested that the committee invite the Supervisor of Elections to address them at an upcoming meeting. Chair Smith advised that this is already in the works.

Chair Smith asked a question related to Section 601 – Initiative and Referendum of the Orange County Charter. Discussion ensued. CRC Attorney Shepard contributed to the discussion.

Future Action Plan

Chair Smith invited committee members to email the Charter account if there are any individuals they would like to invite as a guest speaker at an upcoming meeting. Chair Smith asked committee members to review the memo provided by CRC Attorney Shepard and reiterated that he will provide a more in depth explanation at the next committee meeting.

The next scheduled committee meeting will be held on Tuesday, December 10, 2019 at 4:00 p.m. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Citizen-Initiated Charter and Ordinance Amendment Process Committee

December 10, 2019
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

Soraya Smith, Chair
Jack Douglas
Angela Melvin
Jeffrey A. Miller
Dotti Wynn (via telephone)
Clifford Shepard, CRC General Counsel
Noelia Perez, Senior Minutes Coordinator

Invited Guests:

Dr. Gloria Pickar, League of Women Voters of
Orange County Co-President
Samuel Vilchez Santiago, CRC Member

The Citizen-Initiated Charter and Ordinance Amendment Process Committee meeting was held to further identify related issues and to address any member questions.

Invited Guests

Dr. Pickar presented an introduction to Orange County's League of Women Voters. Dr. Pickar advised the Orange County League has not studied this particular issue in depth but stated that the current process is too restrictive. Dr. Pickar pointed out areas where the Orange County League supports the current process and areas where they feel revisions are needed. The committee members asked various questions regarding Dr. Pickar's remarks. Discussion ensued.

CRC Member Vilchez Santiago addressed several questions raised by various members at the last committee meeting regarding his proposal. Discussion ensued amongst Member Vilchez Santiago and the committee members. General Counsel Shepard contributed to the discussion.

Public Comment

The following persons addressed the committee:

- Carmen Torres
- Eugene Stoccardo

Committee Chair Comments

Chair Smith provided an update regarding her meeting with Supervisor of Elections Cowles related to his Orange County Initiative Petition History memorandum and attachments provided on December 2, 2019. Discussion ensued. General Counsel Shepard contributed to the discussion.

General Counsel Continued Discussion from November 20, 2019

General Counsel Shepard provided the committee with a mathematical comparison of the number of citizen initiative petition attempts made prior to and after 2016. General Counsel Shepard advised that only one of the six petitions attempted prior to 2016 made it to the ballot. General Counsel Shepard referenced an article that was previously distributed to the committee members related to a current proposed Florida Constitutional amendment. Discussion ensued.

Members Open Discussion

Member Miller questioned whether the committee can determine why prior citizen initiative attempts were unsuccessful based upon the information they've been presented thus far. Discussion ensued. Members Miller and Douglas agreed that the committee needs to bring the topic back to the full CRC if the committee would like to consider topics other than petition thresholds.

Future Action Plan

Chair Smith asked the members to think about what the committee was initially charged with and whether the committee should get more specific and bring the topic back to the full CRC. The committee will discuss this and take up a motion at the next committee meeting in January.

The next scheduled committee meeting will be held on January 8, 2020 at 4:00 p.m. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Citizen-Initiated Charter and Ordinance Amendment Process Committee

January 08, 2020
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

Soraya Smith, Chair
Jack Douglas
Angela Melvin
Jeffrey A. Miller
Dotti Wynn
Clifford Shepard, CRC General Counsel
Lakela Louis, Senior Minutes Coordinator

The Citizen-Initiated Charter and Ordinance Amendment Process Committee meeting was held to further identify related issues and to address any member questions.

Public Comment

No members of the public addressed the committee during public comment.

Chair Comments

Chair Smith reminded committee members the original request of the committee was to review the petition threshold percentage and to determine whether the percentage should be adjusted related to the citizen-initiated Charter and Ordinance amendment process. Chair Smith discussed committee deadlines. General Counsel Shepard contributed to the discussion.

Members Open Discussion

Chair Smith expressed her thoughts concerning the committee making a decision regarding the petition threshold percentage today, and then decide whether they should take a look at the process as a whole. General Counsel Shepard and committee members contributed to the discussion.

Committee Vote:

Motion/Second: Members Miller / Melvin

AYE (voice vote): Chair Smith; Members Douglas, Melvin, Miller and Wynn

Action: The committee moved to take no action on what has been presented to the committee regarding the percentages necessary to bring referendum or initiative.

Motion/Second: Member Douglas / Chair Smith

AYE (voice vote): Chair Smith; Members Douglas, Melvin and Wynn

NAY (voice vote): Member Miller

Action: The committee moved to request authority from the full commission tomorrow to look at all aspects of the 180 day time limitation as it affects the petitioner's ability to proceed in a timely basis with a citizen initiative.

Future Action Plan

Member Douglas questioned whether a motion should be made to request General Counsel to proceed with providing the background paperwork and final report for the next committee meeting. Chair Smith reiterated that General Counsel Shepard will be at tomorrow's meeting, and if the motion does not pass, then General Counsel will not need to develop language regarding the 180 day time limitation.

Member Miller requested that General Counsel provide the pros and cons in the final report if the committee is given the authority to expand their scope of work related to the 180 day time limitation.

The committee will schedule their next meeting at a future date. Supporting materials, including the meeting notice, agenda, audio and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Citizen-Initiated Charter and Ordinance Amendment Process Committee

February 19, 2020
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

Soraya Smith, Chair
Angela Melvin
Jeffrey A. Miller
Dotti Wynn
Patrick Brackins, CRC General Counsel
Lakela Louis, Senior Minutes Coordinator

Absent Member:

Jack Douglas

Invited Guest:

BCC District 5 Commissioner Emily Bonilla

The Citizen-Initiated Charter and Ordinance Amendment Process Committee met to discuss the 180-day timeline limitation and proposed ballot title, summary and amendment language.

Invited Guest

Commissioner Emily Bonilla shared her experience regarding the citizen initiative petition process and spoke in favor of amending the Charter to remove perceived barriers. Discussion ensued.

Public Comment

No members of the public addressed the committee during public comment.

Members Open Discussion

The committee members discussed the petition timeline as provided in Supervisor of Elections Cowles' Orange County Initiative Petition History memorandum and attachments dated December 2, 2019. Discussion ensued. General Counsel Brackins contributed to the discussion.

The committee requested General Counsel provide a memorandum clarifying what decision, if any, the Board of County Commissioners (BCC) makes when the sponsor meets the 1% threshold and the Supervisor of Elections notifies the BCC of same. This request arose from the timeline provided by the Supervisor of Elections, which provides: "Upon reaching the 1% threshold, the

SOE shall notify the board. The board shall render its decision within twenty days after notification.” Discussion ensued.

General Counsel Present Proposed Language

General Counsel Brackins presented the proposed ballot title, summary and amendment language. Discussion ensued. Member Melvin requested that the proposed language utilizing the term “toll,” “tolled,” or “tolling” be amended by adding synonymous terms that are more easily understood by the general public. No other changes were requested as the committee’s discussion focused on whether to consider expanding or including additional areas of concern related to the citizen initiative process.

Committee Vote

Motion/Second: Chair Smith / Member Wynn

AYE (voice vote): Chair Smith; Members Melvin and Wynn

NAY (voice vote): Member Miller

Absent: Member Douglas

Action: The committee moved to rescind the committee’s prior vote taken on January 8, 2020 to recommend no action be taken on what has been presented to the committee regarding the percentages necessary to place a citizen-initiative Charter amendment on the ballot.

Future Action Plan

Member Miller questioned whether the committee should examine potential issues with the citizen initiative process beyond the 180-day time period. Discussion ensued regarding all aspects of the citizen initiative process provided in the Charter. The committee questioned the BCC’s role in the citizen initiative process.

The committee will schedule their next meeting at a future date. Supporting materials, including the meeting notice, agenda and summary report may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Citizen-Initiated Charter and Ordinance Amendment Process Committee

March 11, 2020
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

Soraya Smith, Chair
Jack Douglas
Angela Melvin
Jeffrey A. Miller
Dotti Wynn
Clifford Shepard, CRC General Counsel
Jennifer Lara-Klimetz, Assisting CRC as Staff

The Citizen-Initiated Charter and Ordinance Amendment Process Committee met to discuss the citizen initiative process and proposed ballot title, summary and amendment language.

Public Comment

No members of the public addressed the committee during public comment.

Members Open Discussion

Chair Smith provided an overview of prior committee actions, current agenda items, and this meeting's tasks.

The committee members reviewed the petition timeline as provided in Supervisor of Elections Cowles' Orange County Initiative Petition History memorandum and attachments dated December 2, 2019. Discussion ensued. General Counsel Shepard contributed to the discussion.

The committee members agreed to end the discussion on the petition threshold percentages.

Chair Smith provided remarks regarding the 180 day timeline as it affects the petitioner's ability to proceed with a citizen initiative. General Counsel Shepard and committee members contributed to the discussion.

Chair Smith requested that General Counsel speak with the Supervisor of Elections, the County Comptroller, and a representative of the Mayor's Office regarding the amount of time needed to complete their respective tasks as outlined in the petition process.

The committee members discussed the proposed ballot title, summary and amendment language. Member Melvin suggested replacing the word 'tolling' with 'suspending' in the ballot proposal. General Counsel Shepard contributed to the discussion. All committee members agreed on the word choice changes to the presented ballot language.

Future Action Plan

The next scheduled committee meeting will be held on Thursday, April 16, 2020 at 4:00 p.m. via WebEx. If you would like to attend this virtual meeting and/or address the committee, please contact CRC staff at katie.smith@occompt.com. Supporting materials, including the meeting notice, agenda and summary report may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Committee Summary Report

Citizen-Initiated Charter and Ordinance Amendment Process Committee

April 16, 2020
Comptroller's 4th Floor Conference Room
4:00 p.m.

Committee Members:

Soraya Smith, Chair
Jack Douglas
Angela Melvin
Jeffrey A. Miller
Dotti Wynn
Clifford Shepard, CRC General Counsel
Katie Smith, Assisting CRC as Staff
Jessica Vaupel, Assisting CRC as Staff

The Citizen-Initiated Charter and Ordinance Amendment Process Committee met to discuss the citizen initiative process and proposed ballot title, summary and amendment language.

Public Comment

The following persons addressed the committee:

-Chuck O'Neal
-Eugene Stoccardo
-Anh Volmer

Chair Comments

Chair Smith provided an overview of current agenda items and this meeting's tasks. Chair Smith reminded attendees that, to date, the committee had not proposed changes to the percentage threshold.

CRC General Counsel Updates

General Counsel Shepard provided an overview of prior committee actions. General Counsel Shepard discussed the memorandum related to the Precise Deadlines for the Principals Involved in the 180-Day Process dated April 14, 2020. General Counsel Shepard presented the updated title, ballot language, and amendment language.

Members Open Discussion

Member Miller proposed moving forward with the language drafted by General Counsel. Member Wynn agreed.

Discussion ensued amongst the members and General Counsel regarding the Board of County Commissioners (BCC) public hearing held within sixty (60) days after notification of legality by the Legal Review Panel.

Chair Smith asked Deputy Clerk Katie Smith what the next appropriate course of action would be for the committee to take. Deputy Clerk Smith advised the committee to direct General Counsel Shepard to prepare the committee's final report to accompany the ballot, title and summary.

Committee Vote

Motion/Second: Members Miller / Wynn

AYE (Roll Call): Chair Smith; Members Douglas, Melvin, Miller and Wynn

Action: The committee moved to have General Counsel prepare the final report that incorporates the ballot, title, summary and body of changes.

Future Action Plan

General Counsel will prepare the committee final report. Supporting materials, including the meeting notice, agenda and summary report may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.



Memo

To: Cliff Shepard

From: Patrick Brackins

CC:

Re: Citizen Initiative Proposal

Date: November 4, 2019

By way of background, I was tasked with providing a general overview of Member Santiago's proposal that a subcommittee be established to study the threshold requirements for citizen initiatives under the current charter (the "Proposal"). Member Santiago's proposal seeks a comprehensive review of the citizen initiative process and consideration of whether a lower percentage threshold for citizen initiatives should be established. In other words, whether the threshold requirements for a citizen's initiative should be less restrictive.

Currently, section 601 of the charter provides any petition to amend the charter must be signed by ten (10) percent of the county electors in each commission district and any petition to enact, repeal or amend any ordinance must be signed by at least seven (7) percent of the county electors in each commission district. In addition, no less than 75 percent of those signatures must be on petition forms approved by the Supervisor of Elections, which include the comptroller's financial impact statement. By way of comparison, for citizen initiatives to the Florida Constitution, signatures equal to eight (8) percent of the votes in the state as a whole are required. Fla. Const. Art. XI, § 3. The Proposal appears to make an initial recommendation that the percentage of required signatures be lowered to six (6) percent of total eligible voters throughout the county. See Proposal at 4.

The 2016 Charter Review Commission established the Initiative Petitions Work Group "to investigate the conflicting views and expressed concerns about initiative petitions," and "to review the

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current initiative petition process and practice, and to determine whether to recommend changes to the Orange County Charter. . . .” The Petitions Work Group’s Final Report and Recommendation to the Charter Review Commission (the “Work Group Report”), dated January 27, 2016, is attached hereto as **Exhibit A**. The Work Group held 16 public meetings, which were attended by 10-15 members of the public at many of the meetings and it heard “substantial public comment.” It evaluated multiple different proposals and heard from a variety of public officials. In addition, the Work Group reviewed the initiative provisions of each of Florida’s other 19 charter counties and similar provisions from local governments of other states. The “Breakdown of Required Percentage of Registered Voters” for each charter county, which was created by the Work Group, is attached hereto as **Exhibit B**. The chart shows that the percentages range from 30 percent to 4 percent of registered voters.

With respect to the percentage of signatures required to place a citizen’s initiative on the ballot, the Work Group Report states:

***Number of Signatures Necessary for Charter Amendment Initiative
– 10% of Electors in Each Commission District***

The Work Group recommends that the number of signatures necessary for a charter amendment by initiative be changed from 10 percent of the county electors in a majority of the commission districts to 10 percent of the county electors in each commission district. Such a change makes charter amendments by initiative consistent with ordinances by initiative under the Orange County Charter, which requires a requisite number of signatures from all County Commission districts. It closes the current loophole that effectively allows only 6.67% of registered voters in the County to approve a petition drive (due to the present requirement that the requisite signatures be obtained only in a majority of the commission districts), and brings Orange County in line with other charter counties. (Orange County is unique in its “percentage from a majority of districts” structure.)⁴

This recommendation was strongly supported in public comments based on concerns that some districts have intentionally been avoided in past petition drives. The recommendation provides for better public input across all districts on charter amendment petitions, and for equal participation and representation of all districts, thereby avoiding disenfranchisement of districts. In other

words, it preserves the principle of “One Person, One Vote.” Finally, **the Work Group received substantial public comment that the Charter should not be easily amended, and certainly should not be easier to amend than an ordinance.**

The recommendation makes it harder to amend the Charter and it necessarily adds extra time, effort and cost to the initiative process. Overall, however, the Work Group believes the substantial benefit of providing for equal participation and representation of all districts far outweighs these impacts.

Id. (emphasis added). Thus, based on substantial public input, the Work Group recommended amending the charter for the express purpose of making it harder to amend the charter or to propose ordinances by citizen initiatives.

With respect to the Work Group’s recommendation, the 2016 Charter Review Commission’s Final Report provides:

Proposal Summary: The Initiative Petitions Work Group recommended reforming the charter initiative process. The reforms included: providing a single subject requirement; legal review; Comptroller-prepared financial impact statement; public hearing requirements; equal percentages of signatures from all commission districts; disclosure of gatherer’s paid/volunteer status; requiring gatherer’s affidavit and badge; adding a signature withdrawal process; deadlines and other procedural reforms; and protecting successful amendments for one year.

Final Action – Approved

The CRC voted to accept the work group recommendation to place on the ballot changes to Sections 601 and 602 of the Orange County Charter (and a corresponding change to Section 603 of the Charter) relating to initiative petitions, the adoption by the County Commission of an ordinance to carry out the intent of the recommended changes, and a codification of existing laws and procedures.

Id. Thus, the 2016 Charter Review Commission adopted the Work Group’s recommendation to place on the ballot a proposed charter amendment making greater threshold requirements for citizen initiatives.

The proposed amendment passed by more than 66 percent and the additional requirements were added to the Charter in 2016.



2016 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Initiative Petitions Work Group

Final Report and Recommendation to the Charter Review Commission Dated January 27, 2016

Work Group Members:

Rob Mellen, Chair
Fred Brummer
Stina D'Uva
Maribel Gomez Cordero
Matt Klein

The 2016 Charter Review Commission created the Initiative Petitions Work Group to investigate the conflicting views and expressed concerns about initiative petitions. The Work Group was directed to review the current initiative petition process and practice, and determine whether to recommend changes to the Orange County Charter, in particular Sections 601 and 602, to address these issues. Depending on the outcome of their investigation, the Work Group was requested to bring any recommended changes back to the full Charter Review Commission for consideration.

Based on its investigation, the Initiative Petitions Work Group recommends certain substantive changes in the initiative petition process, as well as certain administrative and procedural changes. The Work Group's recommendation provides a clear and concise guide for petitioners to follow in seeking to amend the Charter and adopt or amend ordinances. What follows is a detailed summary of the Work Group's recommended changes and the reasons for them.

In short, the Work Group recommends changes to Sections 601 and 602 of the Charter (and a corresponding change to Section 603 of the Charter) relating to initiative petitions, the adoption by the County Commission of an ordinance to carry out the intent of the recommended changes, and a codification of existing laws and procedures.

Introduction and Overview of Work Group Process

Over the past nine months, the Initiative Petitions Work Group held 16 meetings, averaging two hours per meeting, assembling and evaluating proposals to revise and reform Orange County's initiative petition process. The Work Group's meetings were well attended with 10-15 members of the public in attendance at many of the meetings, as well as elected officials and their representatives who participated from time to time. The Work Group considered input from the public and elected officials who appeared before the Charter Review Commission, including Mayor Teresa Jacobs, Mayor Gary Bruhn (on behalf of the Orange County Council of Mayors), Supervisor of Elections Bill Cowles, and representatives of Comptroller Martha Haynie.

The Work Group reviewed the initiative petition provisions of Florida's 19 other charter counties, as well as select provisions from other states, and heard substantial public comment. Common themes centered upon concerns about "outside interests" and "outside money" coming into Orange County to push initiative petitions, as well as a desire for transparency, particularly relating to the funding of paid petition gathering efforts and the paid or volunteer status of petition gatherers.¹ Supervisor of Elections Cowles regularly participated in the Work Group's discussions, either personally or through staff, providing recommendations, insight, and research to the Work Group.

Based on all of these sources, the Work Group assembled a list of potential initiative petition proposals², which the Work Group then evaluated and discussed throughout its subsequent meetings. A number of the proposals were rejected by the Work Group for legal and policy reasons. The remaining proposals were found to merit recommendation to the full Charter Review Commission.³

As noted, the Work Group's recommendation is divided into three categories; substantive changes to the initiative petition process; administrative or procedural changes; and codification of existing law and procedure. The recommended changes constitute a single proposal. They are interconnected and dependent on one another to achieve their intent. Accordingly, the Work Group recommends that the CRC consider the following a comprehensive plan of reform, rather than a menu from which to pick and choose.

¹ A complete summary of the public comments heard by the Work Group throughout its deliberations is attached as Exhibit "A."

² A copy of this comprehensive list, containing all proposals considered, including those rejected by the Work Group (indicated with ~~striketrough~~), is attached as Exhibit "B."

³ A comprehensive list of all proposed charter changes discussed in this recommendation, tracking the existing structure of Sections 601 and 602 of the Orange County Charter and written to facilitate the drafting of charter language, is attached hereto as Exhibit "C."

Recommended Substantive Changes
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Single Subject Requirement

The Work Group recommends that proposed initiative petitions (for both Charter amendments and ordinances) be subject to a single subject requirement, namely that they “shall embrace but one subject and matter directly connected therewith.” This requirement provides consistency with the standard for state constitutional amendments by initiative. It promotes clarity and makes it easier for a voter to understand what is being proposed, and helps prevent voter confusion. Finally, adding a single subject requirement brings Orange County (one of the few charter counties in the state without a single subject requirement) into line with the majority of charter counties.

Petition Gatherer Badge Requirement Identifying Whether Volunteer or Paid

The Work Group recommends that each petition gatherer circulating a county initiative petition be required to wear a badge that states “Volunteer Gatherer” or “Paid Gatherer,” as the case may be, in a form and manner specified by ordinance. The Work Group extensively researched the constitutional permissibility of a badge requirement, and limited the scope of its recommendation (only disclosure of paid or volunteer status) to be consistent with the findings of that research.

The badge requirement provides a level of needed transparency to the initiative petition process. A potential signer will be able to assess whether the petition gatherer is motivated by principle or profit. The Work Group believes the requirement helps identify whether an initiative is “grassroots” based on popular local support, and conversely helps address the issue of “outside interests” coming into the county to propose issues that may not be in the best interest of the county’s citizens.

This provision is also designed to be flexible, since the County Commission will specify the form and manner of wearing the badge by ordinance, and thus can tailor requirements so they are not burdensome or costly.

A badge requirement is an additional requirement on a petition sponsor not currently imposed, and it does add a burden, albeit minor, on petition gatherers. Overall, the Work Group believes that the benefits of transparency and petition signer education far outweigh this burden.

Petition Gatherer’s Affidavit

The Work Group recommends that the circulated petition form contain an affidavit to be completed and signed by the petition gatherer for each petition circulated, providing the name and address of the petition gatherer, whether he or she was paid or volunteer, and, if paid, by whom and on what basis (hourly, per-signature, other). The petition gatherer will also affirm that the petition was signed in the petition gatherer’s presence, the petition signer had sufficient time to read the petition language, and the signature on

the petition is believed to be the genuine signature of the petition signer. All of these requirements were gathered from similar provisions in other county charters, or from requirements of other states that have withstood constitutional challenge. The Work Group's recommendation includes using the statutory written declaration "under penalty of perjury," rather than a notary acknowledgment.

An affidavit requirement for petition gatherers again provides a degree of desired transparency to the initiative petition process. It discloses to the public in a documented way whether a petition gatherer has been paid or was a volunteer, who is paying the petition gatherer and on what basis. It fosters a better understanding by the signer of the subject matter of the petition by encouraging an opportunity to read it before signing. Finally, it promotes honesty on the part of the petition gatherer and helps prevent fraud in signature gathering.

Legal Review, Financial Impact Statement, and Public Hearing – Upon Reaching 1% Signature Threshold

The Work Group recommends that a legal review requirement, a financial impact statement requirement, and a public hearing requirement be added to Orange County's initiative petition process. The details of these requirements are described below, but all three are triggered when the Supervisor of Elections verifies that a petition has been signed by 1% of the electors in each of the county commission districts. The Work Group believes that setting a minimum number of petitions necessary to trigger these requirements provides a safeguard against the waste of county resources on frivolous petitions if the minimum required number of signatures cannot be obtained.

Legal Review

The legal review will be conducted by a Legal Review Panel, comprised of three attorneys licensed to practice law in Florida who have demonstrated experience in Florida local government law and who are selected on a bi-annual basis through the county's purchasing process applicable to legal services. Within 20 days after the 1% signature requirement is met, the Legal Review Panel will meet and render a written determination whether the proposed initiative petition satisfies the single subject requirement and is consistent with the Florida Constitution, general law and restrictions of the Charter. If at least two members of the Legal Review Panel find that the petition satisfies these requirements, the petition process continues. If, however, two or more panelists find that it does not satisfy the requirements, the current petition drive ends and the petition must be corrected to satisfy the requirements before a new petition drive starts.

The Legal Review Panel will also be charged with ensuring the petition language is clear and not misleading. This legal requirement provides a mechanism for review of the petition language other than by going to court, which is more costly and time-consuming. The legal review benefits the sponsor of an initiative petition by passing on the legality of the petition early in the process so it can be withdrawn and/or corrected. It

also may benefit the sponsor by making the initiative less likely to be challenged upon completion. The requirement for a legal review early in the process can save county resources on costly legal challenges which might otherwise occur later in the process. Finally, the requirement follows the lead of a neighboring charter county (Brevard), which has had a legal review panel process in place for some time and, based on inquiry, has found it to be beneficial.

The legal review process admittedly has the potential to kill a petition drive. It adds cost to the county to conduct an RFP process for selection of the Legal Review Panel and compensating them for their work, but potentially saves costs and avoids challenges later in the process. Also, the Legal Review Panel decision may still be overturned later in the process if challenged in court. Overall, the Work Group believes that the substantial benefits of a legal review that potentially avoids litigation and provides valuable legal feedback to petition sponsors and the public far outweigh the risks.

Financial Impact Statement

Within 20 days after the 1% signature requirement is met, the Comptroller will prepare and transmit to the sponsor of the petition, the Board of County Commissioners, and the Supervisor of Elections, a separate financial impact statement, not exceeding 75 words. The impact statement will estimate the increase or decrease in any revenues or costs to the county, local governments or to the citizens resulting from the approval of the proposed initiative petition. This financial impact statement will be placed on the ballot immediately following the ballot question.

In addition, upon receipt of the financial impact statement, the sponsor of the petition will prepare and submit to the Supervisor of Elections a revised petition form containing the financial impact statement. The Supervisor of Elections, within 15 days after submittal of the revised petition form containing the financial impact statement, then renders a determination on the form of the revised petition. At least 75% of the signed petitions verified by the Supervisor of Elections must include the financial impact statement.

The Work Group believes that a financial impact statement helps educate the public on the cost of an initiative, in taxpayer dollars and otherwise. Requiring that the financial impact statement be placed on a revised petition form provides transparency by informing petition signers of the financial impact of the initiative if adopted. Placing the financial impact statement on the ballot helps ensure that the financial impact of a proposal is considered by voters at the critical time of voting. Lastly, specifying that the financial impact analysis be prepared by the Orange County Comptroller ensures that the analysis is prepared by an office equipped with sufficient expertise that acts independently from the Board of County Commissioners.

This requirement imposes an obligation on the Comptroller and adds the cost to the Comptroller's office of reviewing the initiative and preparing the financial impact statement that does not presently exist. In addition, requiring that the petition form be

revised to incorporate the financial impact statement also imposes an additional obligation and expense on the petition sponsor that doesn't presently exist. However, the Work Group believes that the substantial educational benefits of a financial impact statement independently prepared and placed before the voters on the petition form and ballot far outweigh the additional obligations and costs.

Public Hearing

Within 60 days after notification of legality by the Legal Review Panel, a public hearing will be required to be held on the petition before the Board of County Commissioners. Holding a public hearing to address the merits of the proposal early in the initiative petition process helps educate the public and provides transparency by allowing a longer period of time for the community to review, discuss and fully understand the pros and cons of the initiative. It also allows the County Commission to consider the merits of the proposal and act independently upon it if appropriate.

Number of Signatures Necessary for Charter Amendment Initiative – 10% of Electors in Each Commission District

The Work Group recommends that the number of signatures necessary for a charter amendment by initiative be changed from 10 percent of the county electors in a majority of the commission districts to 10 percent of the county electors in each commission district. Such a change makes charter amendments by initiative consistent with ordinances by initiative under the Orange County Charter, which requires a requisite number of signatures from all County Commission districts. It closes the current loophole that effectively allows only 6.67% of registered voters in the County to approve a petition drive (due to the present requirement that the requisite signatures be obtained only in a majority of the commission districts), and brings Orange County in line with other charter counties. (Orange County is unique in its “percentage from a majority of districts” structure.)⁴

This recommendation was strongly supported in public comments based on concerns that some districts have intentionally been avoided in past petition drives. The recommendation provides for better public input across all districts on charter amendment petitions, and for equal participation and representation of all districts, thereby avoiding disenfranchisement of districts. In other words, it preserves the principle of “One Person, One Vote.” Finally, the Work Group received substantial public comment that the Charter should not be easily amended, and certainly should not be easier to amend than an ordinance.

The recommendation makes it harder to amend the Charter and it necessarily adds extra time, effort and cost to the initiative process. Overall, however, the Work Group

⁴ A breakdown for Florida's 20 charter counties of the required percentage of registered voters, and from how many districts, for ordinances by initiative and charter amendments by initiative, is attached hereto as Exhibit "D".

believes the substantial benefit of providing for equal participation and representation of all districts far outweighs these impacts.

No Amendment or Repeal of a Successful Charter Amendment by Initiative for One Year After Effective Date.

The Work Group recommends that a successful charter amendment by initiative petition not be subject to amendment or repeal for a period of one year after its effective date. Such protection for charter amendments by initiative provides consistency between charter amendments and ordinances by initiative, which presently have the one year protection. It allows a reasonable time to determine whether an amendment works. Finally, it benefits the sponsor of a successful initiative petition by protecting the amendment for at least a year from repeal or change.

A potential consequence of the recommendation is that bad policy cannot be repealed or changed in a timely manner, and the protection may lead to unintended consequences. However, the Work Group believes, in light of the overall improvement and strengthening of the initiative petition process which results from the Work Group's recommendations, a successful charter amendment by initiative should be entitled to operate for a reasonable period of time without interference.

Recommended Administrative/Procedural Changes
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Sponsor to Submit Petitions Signed Each Month No Later than 5th Day of the Following Month

The Work Group recommends that the petition sponsor be required to submit all signed petitions gathered during each month to the Supervisor of Elections no later than the 5th day of the following month. This requirement provides transparency by disclosing how far along the sponsor of an initiative petition is in the signature gathering process (i.e., no holding back of signed petitions), thereby benefiting both the sponsor of the initiative and the community as a whole. Supervisor of Elections Cowles supported this requirement because it promotes efficiency for the Supervisor of Elections' office providing predictability and spreading out the necessary verification. It also facilitates the withdrawal by a petition signer of his/her signature on a petition, as discussed below. Finally, regular submittal of signed petitions helps satisfy the "1% signature requirement" that initiates the legal review, financial impact statement and public hearing requirements as early in the process as possible.

The requirement is one that is not currently applicable to the initiative petition process, and it may void otherwise valid signatures if the petitions are not timely submitted, although this will be as a result of sponsor's inaction. Overall, the Work Group believes that the substantial benefits of transparency and efficiency that this requirement fosters far outweigh the consequences of untimely submission of signed petitions.

Sponsor May Formally Terminate Its Petition Drive

The Work Group recommends that a sponsor of an initiative petition be able to terminate the sponsor's petition drive by filing a form, promulgated by the Supervisor of Elections, with the Supervisor of Elections' office. This change is based on a recommendation from Supervisor of Elections Cowles who advised the Work Group there is presently no clear way for a sponsor of an initiative petition to voluntarily terminate its petition drive. Mr. Cowles indicated that, in his experience, petition sponsors have sometimes wanted to end their petition drives, and the lack of a formal mechanism to do so led to substantial frustration and confusion.

Petition Signer May Withdraw Signature on a Petition

The Work Group recommends allowing a petition signer to withdraw his/her signature on an initiative petition by filing a withdrawal form with the Supervisor of Elections' office. The form will be promulgated by the Supervisor of Elections and made available on the Supervisor's website.

The Work Group believes allowing a petition signer to withdraw his/her signature provides an opportunity for the petition signer to reconsider the decision to sign the petition after additional information is publicly disseminated. Although it adds an incremental amount of work to the Supervisor of Elections' office, Mr. Cowles confirmed that the recordkeeping system used by the Supervisor's office, which ties each signed petition to the voter's record, makes this recommendation easy to implement.

Removal of Requirement for BCC to Call Referendum / Automatic Placement on Ballot Upon Verification of Sufficient Signatures

The Work Group recommends removal of the requirement that the Board of County Commissioners affirmatively vote to place a qualified initiative petition on the ballot based on the recommendation of County Mayor Teresa Jacobs. Rather, the Charter will specify that the initiative will be automatically placed on the ballot after verification of sufficient signatures by the Supervisor of Elections.⁵

⁵ This change also entails the removal of Section 603C of the Orange County Charter, which prohibits the Board of County Commissioners from calling a referendum on any initiative petition that violates Florida law or the restrictions of the Charter. Because the BCC will no longer call a referendum on an initiative petition in any event, the section is no longer effective. In addition, the Work Group's proposal provides for another mechanism to address illegal initiative petitions (the Legal Review Panel process), thus addressing the policy interest served by Section 603C.

Remove Special Election from Elections at Which Initiative Petition Can Be Held

The Work Group recommends that “special elections” be removed as elections at which a referendum can be held on an initiative petition. With this removal, the Charter more simply provides that a referendum be held at the next primary or general election occurring at least 150 days after verification of sufficient signatures. Such change provides clarity and predictability as to when the question will be placed on the ballot. It allows the petition sponsor to more effectively select the election at which the initiative will be considered by the voters and simplifies the initiative petition process overall. Supervisor Cowles concurred that the change can provide clarity and predictability and simplify the process.

Labeling and Ordering Guidance for Charter Amendment Ballot Order

The Work Group recommends that labeling and ballot ordering guidance be provided to the Supervisor of Elections for charter amendments appearing on the ballot. Specifically, charter amendments appearing on the ballot will be labeled using alphabet lettering (A, B, C, etc.), and placed in the following order: first, amendments proposed by the Charter Review Commission; next, amendments proposed by the County Commission; and last, amendments proposed by the initiative petition process; in each case, identifying the section of the Charter being amended along with the title. This recommendation is based on a request from Supervisor of Elections Cowles who indicated that in recent elections questions have arisen as to identifying and ordering charter amendments and, lacking any guidance, he has had to exercise his own judgment to resolve them. Clear guidance in these matters will reduce confusion and improve predictability for petition sponsors and the public. In addition, labeling charter amendments with alphabet lettering provides clarity to the public in distinguishing charter amendments from constitutional amendments.

Recommended Codification of Existing Law/Procedure

Require Petition Sponsor’s Registration as a Political Committee

The Work Group recommends that language be added to the Charter that the sponsor of an initiative petition must “register as a political committee as required by general law.” This requirement has long been the law under Florida election law, but a number of county charters state it expressly in order to help those pursuing charter and ordinance amendments by providing a single source for guidance in working through the process.

Form of Petition

The Work Group recommends that the Charter specify that the petition form used by the petition sponsor contain the ballot title, ballot summary, and proposal language. Once again, this is the existing law and practice pursuant to the Supervisor of Elections’

application of relevant Florida Administrative Code provisions. Adding these provisions to the Charter helps guide petition sponsors through the initiative petition process.

Sponsor Translation of Ballot Title and Summary

The Work Group recommends that the sponsor of an initiative petition provide a translation of the ballot title and ballot summary in the language(s) required by law at the time the petition form is filed with the Supervisor of Elections for review. This recommendation provides clarity to the current initiative petition process by codifying the practice of the Supervisor of Elections and facilitates compliance with federal law requirements.

Supervisor of Elections to Render Determination on Form of Petition Within 15 Days

The Work Group recommends that the Supervisor of Elections be required, within 15 days after submittal, to render a determination on the form of the proposed petition. Currently, there is no established time period for the Supervisor of Elections to complete review and make a determination on the petition form. Supervisor of Elections Cowles has historically rendered a determination on petition forms almost immediately, but providing a specific time limit for the Supervisor to do so provides a procedural safeguard for petition sponsors while codifying existing practice.

Supervisor of Elections to Verify Validity of Signatures within 30 Days After Submittal and to Post Tally on Website

The Work Group recommends that the Supervisor of Elections be required to verify the validity of the signatures submitted within 30 days after submittal, and to post a tally of the number of signatures verified on the Supervisor of Elections' website for public view. Once again, this recommendation codifies the Supervisor of Elections' current practice. It provides transparency by disclosing how far along the sponsor of an initiative petition is in the signature gathering process, thereby benefiting both the sponsor of the initiative petition and the community as a whole. The recommendation also benefits the sponsor by providing certainty as to the total number of valid signatures submitted as the process progresses, so the petition sponsor can determine the number of additional petitions needed.

Conclusion

The Work Group believes that the proposed substantive, procedural and administrative changes to the initiative petition process outlined in this recommendation are responsive to the conflicting views and expressed concerns raised in regard to the current initiative process and practice. The Work Group further believes that, if adopted by the Charter Review Commission and approved by the voters, the initiative process in Orange County will be significantly improved and provide much needed clarity, transparency and guidance.

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “A”

Date Presented	Presented by	Topic(s)
3/12/2015	Doug Head	a) Expectations for the public to prepare ballot initiative language are unreasonable b) Issues that tend to limit the capacity of minorities is unacceptable
4/9/2015	Mayor Bruhn Chair, Orange County Council of Mayors	a) Provide fixed date by which petition process must be completed b) Include a mechanism to withdraw/end a petition process Note: Letter dated March 26, 2015, provided to CRC
4/9/2015	Linda O'Keefe	a) Need 150 day filing time b) Possible misleading language of initiative itself needs legal review c) Outside interests funding petition process d) Need transparency and financial disclosure e) Need fair representation across all districts
4/9/2015	Bill Barnette	a) Big national groups coming into Orange County and funding their own interests b) Need to make it for citizens by citizens
4/9/2015	Emmett Odell	a) Do not make initiatives any more difficult b) CRC considers/vets an issue for a long time before putting on ballot
4/9/2015	Dana Gowen	a) Limit ballot questions to 75 words b) Changing Orange County constitution/charter should be hard c) Keep questions direct and simple
4/9/2015	Doug Head	a) Object to constrain citizen's input by making ballot initiatives harder b) Keep ballot questions to one topic (single issue)
4/9/2015	Chadwick Hardee	a) Concerned about outside groups funding ballot initiatives b) Need to include all districts in signatures c) Keep ballot questions to single issue
4/30/2015	Summary Report does not reflect Public Comments	
5/14/2015	Cynthia Ellenberg	a) Ballot language – citizens need to understand what the ballot is asking b) Concerned that signatures are not collected in the majority of the districts c) Interested in bifurcation – citizens should know who is collecting the signatures

Date Presented	Presented by	Topic(s)
5/28/2015	Summary Report does not reflect Public Comments	
6/9/2015	Barbara Seidenberg	<ul style="list-style-type: none"> a) Transparency - Paid petition gatherers b) Outside Interest - Threshold higher for paid gatherers
6/9/2015	Todd Catella	Petition initiative is important because the county school run from within, the issues should be driven from within and not from without
6/25/2015	Summary Report does not reflect Public Comments	
7/9/2015	Bill Barnett	Limit outside money that comes into Orange County to implement outside national ideas
7/9/2015	Linda O'Keefe	Discussion at the work group meeting are in the interest of finding a way to bring accountability and transparency to the petition process
7/9/2015	Kelli McNair-Lee	The goal is to eliminate cheating and try to make the process fair
7/9/2015	Tom Tillison	Transparency in the process is what everyone is looking for
7/9/2015	Todd Catella	<ul style="list-style-type: none"> a) In favor of the restriction on the initiatives on paid and unpaid b) As well as the other topics that have been mentioned
7/16/2015	Meeting Cancelled	
7/21/2015	Summary Report does not reflect Public Comments	
8/13/2015	David Siegel	Likes the discussion on disclosure by putting measures on the ballot
8/13/2015	Linda O'Keefe	<ul style="list-style-type: none"> a) Concerned with the funding of local petition efforts in Orange County by outside interest b) Request the requirement of all districts be represented in the petition initiative drive, not just the majority c) Request affidavits, disclosures, and badges for paid circulators d) Keep the 150 day requirement e) Raise the threshold for paid circulators
8/13/2015	Frank Caprio	<ul style="list-style-type: none"> a) Encourage the CRC to make the petition process as difficult as possible b) Designate between paid and unpaid circulators

Date Presented	Presented by	Topic(s)
8/13/2015	Chadwick Hardee	Outside money coming into the district should have a tighter restriction
8/13/2015	Bill Barnett	<ul style="list-style-type: none"> a) The process should not be easy b) Should not have paid outside influences
8/13/2015	Emily Bonilla	The petition process should not be made too difficult because it's the job of the people to create law and the government to enforce the law
8/20/2015	Summary Report does not reflect Public Comments	
8/27/2015	Summary Report does not reflect Public Comments	
9/10/2015	Barbara Seidenberg	<ul style="list-style-type: none"> a) Against outside interest funding petition process b) Need for affidavit requirements c) Circulators should wear badges d) Need for disclosure e) Need for a way to withdraw a signature on a petition
9/10/2015	Linda O'Keefe	<p>Thanked the work group for:</p> <ul style="list-style-type: none"> a) Making sure the process works for the residents of the county b) Considering concerns brought to their attention by the public c) Researching many practices from other counties and states d) Seeking the input from the Supervisor of Elections
9/10/2015	Cynthia Ellenberg	<ul style="list-style-type: none"> e) Disclose the sponsor of a petition f) Disclose if paid or a volunteer g) Need for badges h) Need to educate the public on the process a) Create a mechanism to remove a signature on a petition

Date Presented	Presented by	Topic(s)
9/10/2015	Mike Ketchum	Commended the work group and Counsel on their efforts towards addressing topics such as: a) Outside interest b) Misleading language on ballots c) Hidden agendas d) Greater transparency
9/10/2015	Todd Catella	In support of knowing who brings forward citizen petitions
9/24/2015	Mike Ketchum	a) Legal Review Process – supports the direction of the work group b) Financial Impact Statement - the statement should include the impact on the private sector or individual tax payers c) Agrees the topics of a period of time during which a charter amendment cannot be disturbed/provide a period of time after an initiative petition has failed to pass on the ballot should be addressed
9/24/2015	Michelle Levy	a) Legal Review Process - the League of Women Voters would not be comfortable with the RFP process b) Financial Impact Statement - asked for clarification as to what impacts should be addressed
9/24/2015	Bill Cowles	a) Legal Review Process - the legal review should not stop or delay the petition process b) Financial Impact Statement - a panel can also be commissioned to complete a financial impact statement c) Documents need to be prepared in English and Spanish
9/24/2015	Cynthia Ellenberg	a) Legal Review Process - agrees with Mike Ketchum's statements b) Financial Impact Statement - prefers the Orange County Charter language because it includes the impact on the citizens.
9/24/2015	Todd Catella	Asked what issues have been raised in the past to create the need to consider a period of time during which a charter amendment cannot be disturbed/provide a period of time after an initiative petition has failed to pass on the ballot
10/1/2015	Todd Catella	a) Asked if the one (1) year protection of a period of time during which a charter amendment cannot be disturbed would be a separate clarification from the requirement for additional petition signatures. b) Likes the decision of having the public hearing early in the initiative petition process; however, what is the purpose for the maximum of 30 days for the BCC to call a referendum by resolution c) Likes the thought of petitions being submitted in a timely manner and suggested that the group organizing the petition indicate which election date they would prefer their petition to be placed on the ballot and possibly specify a secondary option as well

Date Presented	Presented by	Topic(s)
10/1/2015	Nick Shannin	<ul style="list-style-type: none"> a) The office of the Supervisor of Elections appreciates the work groups' decision not to move forward on the topic of a period of time after an initiative petition has been placed on the ballot and failed to pass during which an identical or substantially similar initiative may not be placed on the ballot b) The Supervisor of Elections does not have the power to put an initiative petition on the ballot c) The BCC must place the initiative petition on the ballot even if an affirmative vote does not have to take place to do so d) The Charter provides the BCC the opportunity to call for a referendum by resolution
10/1/2015	Bill Barnett	<ul style="list-style-type: none"> a) There are outside groups that would spend money a second time b) The Commission serves a purpose to ensure the County does not implement something that is damaging to the County
10/1/2015	Terri Falbo	Asked if the group circulating a petition is aiming to be on the November ballot but because of the rolling time period they may get enough signatures sooner, would that cause the petition to be placed on an earlier ballot. Is this a possible scenario and is anyone concerned with this type of issue
10/1/2015	Linda O'Keefe	In favor of making sure the initiative process is followed correctly by having the BCC vote on the petition as a last measure
10/22/2015	Linda O'Keefe	Having a requirement of a financial impact statement is a good idea to be placed on the ballot and encourages the work group members to vote for it
10/22/2015	John Lina	Asked if the impact statement will include opportunity cost
10/2220/15	Bill Barnett	Concerned with the opportunity cost, encourages the members to support the original motion
10/22/2015	Bill Cowles	<ul style="list-style-type: none"> a) In regards to the opportunity cost, if it goes to electioneering depending on how it is written, it could be a challenge putting it on the ballot b) Asked was the motion for a financial impact statement only for the CRC to the ballot, the BCC to the ballot, or from the citizens c) Require the organization of the initiative petition to submit the financial impact statement when they file their petition with the Supervisor of Elections Office
10/22/2015	Lorraine Tuliano	It seems to be a long laborious process to find someone to craft a financial impact statement when you have a qualified Comptroller available

Date Presented	Presented by	Topic(s)
10/22/2015	Todd Catella	<ul style="list-style-type: none"> a) When placing the amendments in sections in order of CRC, Board, and initiative; there should not be an identification mark separating the sections to ensure people are assessing the merit of the question and not where they came from b) Likes the thought of a back-up person being allowed to withdraw or terminate a petition in case the other party is not available and question if the form created by the Supervisor of Elections can be challenged c) The November 3rd meeting is important to attend from the public side
11/03/2015	Trini Quiroz	Asked what are the things excluded, what is the exception of the initiative petitions process
11/03/2015	Michelle Levy	Asked who will pay for the volunteers' badges
11/03/2015	Mike Ketchum	<ul style="list-style-type: none"> a) Thanked the work group members for their efforts by generating greater transparency b) The members have kept a really good balance, looking forward to seeing the process move ahead
11/03/2015	Bill Barnett	<ul style="list-style-type: none"> a) Include the words "clearly visible" to ensure the badges are clearly displayed b) Need for transparency and disclosure c) The transparency of the process is the important factor d) The report specifies no action was taken; however, other actions have been taken that address this issue of the impact and influence of money from outside of Orange County on the Orange County initiative petition process
11/03/2015	Linda O'Keefe	<ul style="list-style-type: none"> a) Agrees with the idea of stating paid or volunteer on the badge; however, the badge should also include the name of the political committee b) Disclosure for the public is very important c) The members haven't really addressed the impact of money from outside groups; however, enough has been done to create some transparency in the system d) Suggested adopting a residency requirement for sponsors; although, understands it can cause a legal battle
11/03/2015	Debra Sumner	Include a 75 word limit to help citizens get an overview of what they are voting for
11/19/2015	No One Addressed the Work Group	

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “B”

Proposals Received for Initiative Petition Related Charter Amendments

- **Number of signed petitions required to qualify an initiative petition for the ballot:**
 - Increase the percentage of signed petitions required to qualify an initiative petition for the ballot:
 - ~~Ordinance by initiative;~~
 - Charter amendment by initiative; or
 - ~~Both.~~
 - ~~Provide for a higher and lower required percentage of signed petitions depending on whether the initiative is a paid petition-gathering effort or non-paid, respectively.~~
 - ~~Require notarized affidavits from the initiative petition sponsor and petition-gatherers certifying that the petition-gathering effort is unpaid.~~
 - ~~With savings language to specify that in the event the higher required percentage for paid petition-gathering efforts is invalidated by court order, the required percentage of signed petitions, whether the effort was paid or unpaid, would then default to be the higher required percentage.~~
 - With respect to charter amendments by initiative, require a specified minimum percentage of signed petitions from each county commission district, rather than from only a majority of districts.
- **Requirements and regulations concerning petition gathering and petition-gatherers:**
 - Identify sponsor on the face of the petition
 - Sponsor registration as a political committee
 - ~~Qualifications of petition-gatherers~~
 - Require a declaration under penalty of perjury ~~notarized affidavit~~ from each petition-gatherer with respect to each signed petition, specifying:
 - The name and address of the petition-gatherer;
 - Whether the petition-gatherer was paid for his or her work in gathering that petition;
 - By whom the petition-gatherer was paid;
 - If paid, whether the petition-gather was paid on:
 - An hourly basis;
 - A per-signature basis; or
 - Some other basis therein described.
 - That the petition was signed in the petition-gatherer's presence;
 - That the petition signer had enough time to read the petition language. (Potentially modeled on Duval County and Broward County Charter language.)
 - Require that petition-gatherers wear a badge indicating whether they are paid or unpaid, ~~and if paid, by whom.~~
 - Signature requirements on petition
 - Name, address, date, ~~county commission district~~, etc.

(~~strike out~~ indicates proposals that the workgroup decided not to include; underline indicates changes or additions made by workgroup to proposals)

- Provide for a procedure for a petition signer to withdraw his or her signature from an initiative petition effort.
 - ~~Which might implicate the need to~~ add a requirement that petitions be submitted to the Supervisor of Elections monthly within a specified number of days after the date of signature.
- ~~Address electronic petition gathering~~
- ~~Address petitions in other languages~~
- Additional concerns specified by the Supervisor of Election's Office
- **Substantive Requirements for Initiative Petitions**
 - Provide for a single subject requirement for:
 - ~~Charter amendments by initiative;~~
 - ~~Ordinances by initiative; or~~
 - Both.
 - ~~Provide for a 75 (or other number) word limit on the textual revision to the county charter or code of ordinances proposed by initiative petition.~~
 - Provide for a legal review process for initiative petitions (Potentially modeled on Brevard County Charter language):
 - Who would conduct this review? Legal Review Panel
 - ~~If those persons are appointed, who would appoint them?~~
 - At what point in the process would the legal review occur?
 - Potentially, upon attaining a minimum threshold percentage of signed petitions.
 - Require that a Financial Impact Statement prepared by the County Comptroller Commission ~~or other body~~ be included with an initiative petition ballot summary on the ballot. (Potentially modeled on Hillsborough County Charter language, Section 8.05)
 - Provide for a period of time after a charter amendment by initiative petition is passed, during which such charter amendment cannot be disturbed, i.e., amended or repealed.
 - ~~Provide for a period of time after an initiative petition is placed on the ballot and fails to pass, during which an identical or substantially similar initiative petition:~~
 - ~~May not be placed on the ballot; or~~
 - ~~Is made subject to a higher percentage petition requirement (as in the Duval County Charter, providing for a 10% threshold rather than 5% in such a case.)~~
- **Procedural Requirements for Initiative Petitions**
 - Time periods for process
 - ~~Moving due date for petitions to qualifying period for election~~ Removed special elections.
 - Provide for a mandatory public hearing on initiative petition proposals ~~charter amendments by initiative petition.~~
 - Provide guidance to the Supervisor of Elections concerning ballot order, placement, labeling, and format relating to charter amendments.

(~~strike out~~ indicates proposals that the workgroup decided not to include; underline indicates changes or additions made by workgroup to proposals)

- Specify who is responsible for ballot translation.
- Provide for a formal mechanism by which a sponsor of an initiative petition can withdraw or terminate its initiative petition effort.
- ~~Process by which the BCC may place an amendment on the ballot~~
- Sec. 601 - Initiatives and Referendum
- **Use of Initiative Petition Process**
 - ~~Amend charter only through charter review process~~
 - ~~No ordinance by initiative process~~
 - Address the impact and influence of money from outside of Orange County on the Orange County initiative petition process.

(~~strike out~~ indicates proposals that the workgroup decided not to include; underline indicates changes or additions made by workgroup to proposals)

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “C”



2016 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Exhibit "C" – Comprehensive List of All Proposed Charter Changes Set Forth in Final Report and Recommendation of the Initiative Petitions Work Group

The following is a comprehensive list of all proposed charter changes discussed in the Final Report and Recommendation of the Initiative Petitions Work Group, tracking the existing structure of Sections 601, 602, and 603 of the Orange County Charter, written to facilitate the drafting of charter language. The list incorporates the existing language of Sections 601 and 602 of the Orange County Charter, with existing charter language italicized, and proposal elements in plain text and bulleted. Section 602 has been split into seven subsections, lettered A through G. The existing language of Section 602 has been divided in the presentation below, with the language of existing Subsections A and B (dealing with the referendum processes for both charter amendments and ordinances by initiative) moved to Subsection 602.G. Referendum.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 601. - Initiative and referendum.

The power to propose amendment or repeal of this Charter, or to propose enactment, amendment or repeal of any county ordinance by initiative is reserved to the people of the county.

- A. *Charter. A petition seeking to amend or repeal the Charter of Orange County shall be signed by ten (10) percent of the county electors in each commission district ~~a majority of the commission districts~~ as of January 1 of the year in which the petition is initiated.*
- B. *Ordinance. A petition seeking to enact, amend or repeal an ordinance shall be signed by seven (7) percent of the county electors in each commission district as of January 1 of the year in which petition is initiated.*

-- Change the number of signatures necessary for a charter amendment by initiative from 10 percent of the county electors in a majority of the commission districts to 10 percent of the county electors in each commission district.

Sec. 602. - Procedure for initiative and referendum.

The sponsor of an initiative petition shall, prior to obtaining any signatures, submit the text of the proposed petition to the supervisor of elections, with the form on

which signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form may be specified by ordinance. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after that date. In the event sufficient signatures are not acquired during that one-hundred-eighty-day period, the petition drive shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. If sufficient signatures are obtained, the sponsor shall submit signed and dated forms to the supervisor of elections who shall within thirty (30) days verify the signatures thereon and submit a written report to the board.

602.A. Initiation of Process

- Require that the sponsor of an initiative petition “register as a political committee as required by general law.”
- Require that the sponsor of an initiative petition provide a translation of the ballot title and ballot summary in the language(s) required by law at the time the petition form is filed with the Supervisor of Elections for review.
- Specify that the Supervisor of Elections shall, within 15 days after submittal, render a determination on the form of the proposed petition.
- Specify that each proposed charter amendment by initiative and each ordinance by initiative “shall embrace but one subject and matter directly connected therewith.”

602.B. Form of Petition

- Specify that the petition form shall contain the ballot title, ballot summary, and proposal language.
- Require that the petition form contain an affidavit to be completed by a petition gatherer, signed and verified by the petition gatherer pursuant to Section 92.525(1)(c), Fla. Stat., for each petition gathered by a petition gatherer, specifying:
 - Name and address of the petition gatherer;
 - Whether the petition gatherer was a paid gatherer or volunteer gatherer;
 - If paid, by whom;
 - If paid, whether paid on:
 - An hourly basis;
 - A per-signature basis; or
 - Some other basis therein described;
 - That the petition was signed in the petition gatherer’s presence;
 - That the petition signer had sufficient time to read the petition language;
 - That the petition gatherer believes the signature on the petition to be the genuine signature of the petition signer.

602.C. Petition Gathering

- Require that a petition gatherer gathering a county initiative petition who is not being paid to do so shall display a badge that states the words "VOLUNTEER GATHERER", in a form and manner specified by ordinance.
- Require that a petition gatherer gathering a county initiative petition who is being paid to do so shall display a badge that states the words "PAID GATHERER", in a form and manner specified by ordinance.
- Require that a petition gatherer sign and verify the affidavit required on the petition form for each petition gathered by the petition gatherer.

602.D. Submission of Signed Petitions; Verification of Requisite Signatures

- Require that all signed petitions gathered by petition gatherers in a month be submitted to the Supervisor of Elections no later than the 5th day of the following month.
- Require that the Supervisor of Elections verify the validity of the signatures submitted within 30 days after submittal.
- Require that the Supervisor of Elections post a tally of the number of signatures verified on the Supervisor of Elections' website for public view.

602.E. Legal Review, Financial Impact; Public Hearing

- Specify that upon verification by the Supervisor of Elections that a petition has been signed by at least 1% of the county electors in each of the commission districts, the Supervisor of Elections shall so notify the Comptroller and the Legal Review Panel.

Legal Review

- Specify that the Legal Review Panel shall be a panel of three attorneys licensed to practice law in the state of Florida who have demonstrated experience in Florida local government law, and who shall be selected on a bi-annual basis through the county's purchasing process applicable to legal services.
- Specify that the Legal Review Panel shall meet and render a determination, within 20 days after notification by the Supervisor of Elections, whether the proposed initiative petition, including ballot title, ballot summary, petition language, and ballot language translations, embraces but one subject and matter directly connected therewith, and is consistent with the Florida Constitution, general law, and the restrictions of the Charter.
- Specify that if at least two members of the Legal Review Panel determine that the proposed initiative petition embraces but one subject and matter directly connected

therewith, and is consistent with the Florida Constitution, general law, and the restrictions of the Charter, then the Legal Review Panel shall render a written opinion setting forth the reasons therefor, and so notify the Board of County Commissioners, the Supervisor of Elections, and the sponsor of the petition.

-- Specify that if at least two members of the Legal Review Panel determine that the proposed initiative petition does not embrace but one subject and matter directly connected therewith, or is inconsistent with the Florida Constitution, general law, or the restrictions of the Charter, then the Legal Review Panel shall render a written opinion setting forth the reasons therefor, so notify the Board of County Commissioners, the Supervisor of Elections, and the sponsor of the petition, and the petition drive shall thereafter terminate. None of the signatures acquired in such a petition drive may be carried over into another identical or similar petition.

Financial Impact Statement

-- Specify that within 20 days after notification by the Supervisor of Elections, the Comptroller shall prepare and transmit to the Board of County Commissioners, Supervisor of Elections and the sponsor of the petition, a separate financial impact statement, not exceeding 75 words, including the estimated increase or decrease in any revenues or costs to the county or local governments or to the citizens resulting from the approval of the proposed initiative petition. The Comptroller shall also prepare translations of the financial impact statement into the language(s) required by law.

-- Specify that the 75-word financial impact statement shall be placed on the ballot immediately following the ballot question.

-- Require that the sponsor of the petition, upon receipt of the financial impact statement, shall prepare and submit to the Supervisor of Elections for review and approval a revised petition form containing the financial impact statement.

-- Specify that the Supervisor of Elections shall, within 15 days after submittal of the revised petition form containing the financial impact statement, render a determination on the form of the revised petition.

-- Require that least 75% of the signed petitions include the 75-word financial impact statement.

Public Hearing

-- Specify that within 60 days after notification of legality by the Legal Review Panel, a public hearing shall be held on the petition before the Board of County Commissioners.

602.F. Termination of Petition Drive by Sponsor; Withdrawal of Signature by Petition Signer

-- Specify that a sponsor of an initiative petition may terminate a petition drive by filing a completed form so stating, in a form promulgated by the Supervisor of Elections, with the Supervisor of Elections.

-- Authorize a petition signer to withdraw his or her signature by filing, with the Supervisor of Elections, a completed form so stating, in a form promulgated by the Supervisor of Elections and available to print from the Supervisor of Elections website, adequately identifying the petition signer and petition drive, prior to the verification of signatures by the Supervisor of Elections.

602.G. Referendum

- A. *Charter. Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the supervisor of elections. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1 of the succeeding year.*
- B. *Ordinance. Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall notice and hold a public hearing on the proposed petition according to law and vote on it. If the board fails to adopt the proposed petition, it shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the supervisor of elections. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be declared by resolution of the board to be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1, of the succeeding year. The board shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.*
- C. *The initiative power shall not be restricted, except as provided by general law and this Charter.*

-- Remove the requirement that the Board of County Commissioners call a referendum on the question of the adoption of the petition, and specify that a referendum will be held on the question automatically after verification of sufficient signatures by the Supervisor of Elections.¹

-- Remove "special election" as an election at which a referendum can be held on an initiative petition, thereby providing that the referendum will be held at the next primary or general election occurring at least 150 days after verification of sufficient signatures by the Supervisor of Elections.

-- Specify that charter amendments appearing on the ballot be labeled using alphabet lettering (A, B, C, etc.), and placed in the following order: first, amendments proposed by the Charter Review Commission; next, amendments proposed by the County Commission; and last, amendments proposed by the initiative petition process; in each case, identifying the section of the charter being amended along with the title.

-- Provide that successful charter amendments proposed by initiative petition may not be amended or repealed for a period of one year after its effective date.

¹ This change also entails the removal of Section 603C of the Orange County Charter, which states:

C. Notwithstanding any other provision of this charter, the board is prohibited from calling a referendum on the question of the adoption of any proposed charter amendment or ordinance by initiative which, in the determination of the board, is wholly or partially violative of the limitations of this section or Florida law.

Because the BCC will no longer call a referendum on an initiative petition in any event, the section will no longer be effective.

FINAL REPORT AND RECOMMENDATION
INITIATIVE PETITIONS WORK GROUP
EXHIBIT “D”

Exhibit B**Breakdown of Required Percentage of Registered Voters, and from How Many Districts
for Ordinances by Initiative and Charter Amendments by Initiative under Florida's 20 County Charters**

<u>Charter County</u>	<u>Population</u>	<u>Ordinance by Initiative</u> % of Reg. Voters Req. on Petition, and from How Many Commission Districts	<u>Charter Amend. by Initiative</u> % of Reg. Voters Req. on Petition, and from How Many Commission Districts
Alachua	247,337	7%, county as a whole	10%, county as a whole
Brevard	545,184	5%, county as a whole, with 5% from 3 of 5 districts	4% from each of 5 districts
Broward	1,753,162	7%, county as a whole, with no more than 25% from any one of 9 districts	7%, county as a whole, with no more than 25% from any one of 9 districts
Charlotte	160,463	10%, county as a whole	10%, county as a whole
Clay	191,143	10%, county as a whole	10%, county as a whole
Columbia	67,528	7%, county as a whole, with 7% from 3 of 5 districts	10%, county as a whole, with 10% from 3 of 5 districts
Duval	864,601	(No Ordinance by Initiative Process)	5%, county as a whole, or 10%, county as a whole, if proposed a second time within a 12 month period
Hillsborough	1,238,951	(No Ordinance by Initiative Process)	8%, county as a whole, with 8% from 2 of 4 districts
Lee	625,310	5%, county as a whole, with no more than 30% from any one of 5 districts	7%, county as a whole
Leon	276,278	10% from each of 5 commission districts	10% from each of 5 commission districts
Miami-Dade	2,516,515	4%, county as a whole, with no more than 25% from any one of 13 districts	10%, county as a whole
Orange	1,157,342	7% from each of 6 commission districts	10% from each of 4 of 6 commission districts [10% x (4/6) = 6.67%]
Osceola	273,867	7%, county as a whole	10%, county as a whole
Palm Beach	1,325,758	7%, county as a whole	7%, county as a whole
Pinellas	918,496	(No Ordinance by Initiative Process)	10%, county as a whole, with no more than 40% from any one of 3 at-large districts, and no more than 30% from any one of 4 single member districts
Polk	604,792	6% from each of 5 commission districts	7% from each of 5 commission districts
Sarasota	381,319	(No Ordinance by Initiative Process)	5%, county as a whole
Seminole	424,587	5%, county as a whole, with 5% from 3 of 5 districts	7.5%, county as a whole, with 7.5% from 3 of 5 districts
Volusia	495,400	(No Ordinance by Initiative Process)	5% from each of 5 commission districts
Wakulla	30,877	30% from each of 5 commission districts	30% from each of 5 commission districts

Memo

To: Orange County Charter Review Commission

From: Cliff Shepard; Shepard, Smith, Kohlmyer & Hand, P.A.

Date: November 20, 2019

Re: Background of Changes to Article VI of the Charter

The 2016 Amendments to Sections 601 through 603 of the Charter made a host of changes to the Orange County petition process. Below is a discussion of the amendments as well as their impact on the timeline for successfully gathering signatures for a petition.

Prior Law and the 2016 Amendments

Prior to 2016, a sponsor would submit a petition to the Supervisor of Elections for approval as to form. Once approved, the Sponsor had 180 days to secure the signatures of 10% of the electors in a majority of County commission districts. The Board was prohibited from calling a referendum on a proposed charter ordinance or initiative which, in the Board's view, would partially or wholly violate the Charter of Florida law. Otherwise, there were few procedural hurdles.

The 2016 Amendments made changes to:

- The content of the petition;
- The procedure for collecting petition signatures;
- The procedure to get the petition on the ballot; and
- The content of the ballot questions.

Current Requirements per the 2016 Amendments

Content of the Petition

Prior to gathering signatures, a sponsor of a proposed petition must register as a political committee as required by general law and submit their petition language to the Supervisor of Elections for approval. The Amendments added four requirements to the substance of the petition:

- Each petition is now limited to only one subject and matter directly connected therewith;
- All petitions must include the ballot title, summary, and full text of the change proposed;
- All petitions must include an affidavit to be signed by the petition gatherer specifying their name and address, whether and how they were paid, that the petition was signed in the gatherer's presence, that the signer had sufficient time to read the petition, and that the gatherer believes the signature to be genuine; and
- After obtaining 1% of the required signatures in each district, the Petition must be amended to add a Financial Impact Statement prepared by the Comptroller, as discussed further below.

The sponsor of the petition must also prepare and submit translations for all required ballot languages.

Collecting Petition Signatures

The 2016 Amendments add the new Subsections 602(C) and (D), regulating the collection of signatures and requiring monthly submission of petition signatures.

Subsection (C) requires any individual gathering petitions to wear a badge identifying themselves either as a "Volunteer Gatherer" or a "Paid Gatherer," depending on whether the gatherer is paid. The gatherers must individually sign the required affidavits present on each petition. If an elector signs a petition independently and submits it to a sponsor directly, the sponsor may submit the petition to the Supervisor with an accompanying affidavit stating that the petition was not collected by a gatherer, that the petition was submitted directly, and the month the petition was received.

Under Subsection (D), the sponsor must submit received petitions to the Supervisor of Elections for signature verification by the 5th of each month. This applies to both petitions collected by gatherers and those received by direct submission. The Supervisor has 30 days to verify the validity of the signatures. Once the Supervisor determines that the petition has been signed by at least 1%

of the electors of each district, it triggers three additional procedural steps, as discussed below.

Getting on the Ballot

Previously, a petition needed to be signed by 10% of the electors in a majority of the commission districts. The 2016 Amendments changed that to require 10% of electors in *each* district.

In addition to this increase in the basic requirements, the 2016 Amendments added three intermediary procedural requirements that trigger upon the sponsor obtaining the signatures of 1% of the electors in each district: (1) legal review by a panel; (2) Financial Impact review; and (3) a hearing before the Board of Commissioners. Each of these requirements are governed by Section 602(E). ***NOTE:*** The 180-day clock to complete collection of signatures is not paused or tolled while these procedures are underway.

- **Legal Review**

Section 602(E)(2) creates a new “Legal Review Panel,” to consist of three experts in local government law, procured on a semi-annual basis. Within 20 days of being notified by the Supervisor that the 1% threshold has been met, the Panel must determine whether the Petition complies with general Florida law and the requirements of the Charter. If the Panel determines that the Petition complies with the law, the Panel must provide a written opinion of that decision to the Board, the Supervisor and the sponsor. If the Panel determines that the Petition does NOT comply with the law, they must similarly provide a written opinion, which also automatically terminates the petition drive.

Note that previously the Board had this power to eliminate a petition by finding that the petition violated Florida law or the charter.

- **Financial Impact Review**

Section 602(E)(3) provides for review of the Petition by the Comptroller for financial impact. Within 20 days of being notified by the Supervisor that the 1% threshold has been met, the Comptroller must prepare and transmit to the Board, Supervisor and the sponsor a financial impact statement of not more than 75 words discussing the increase or decrease in costs or revenues to the County. Upon receiving the financial impact statement, the sponsor must submit a revised petition including that statement to the Supervisor, who then has fifteen days to determine whether the revised petition complies with the law.

The sponsor must then collect at least 75% of the required signatures using this revised petition. It appears that this means 75% of the minimum *in total*, rather than the minimum *for each district*.

- **Public Hearing**

Within 60 days of the Legal Review Panel notifying the Board that the petition is legally compliant, the Board must hold a hearing at which the sponsor, the Board and the public may comment on the petition. It does not appear that the Board may override the Panel's opinion on legality at the hearing.

Content of Ballot Questions

As previously mentioned, the ballot questions are now limited to a single subject and matter under Subsection 602(A). The financial impact statement prepared by the Comptroller, in addition to appearing on the petition, must also appear on the ballot itself.

Timeline under Current Law

The Petition drive, upon being initially approved by the Supervisor, automatically terminates after 180 days if an insufficient number of signatures were collected. The 2016 amendments did not change this basic timeline except to state that the signatures must be *submitted*, not just acquired, within this 180-day timeframe. However, the timeline has changed primarily due to the new procedural steps required under Section 602. As discussed above, the 180-day clock is not paused or tolled while the County evaluates the Petition under the new procedural steps, thus giving an abbreviated window to collect at least 75% of the required signatures.

The following is a timeline for a hypothetical 2020 petition where the County administrative process takes the maximum time allowed:

- Sponsor registers as political committee (if required) and submits proposed petition language, including translations, to the Supervisor.
- January 1: Supervisor of Elections Approves proposed petition language.
 - Sponsor may now begin collecting signatures, 180-day clock begins.
- February 1: Sponsor submits January's gathered signatures to Supervisor per monthly reporting under Subsection 602(D). The signatures consist of at least 1% of the electors of each commission district.

- March 2¹: Deadline for Supervisor to verify the signatures and thereby notify the Board, Comptroller and Legal Review Panel that the 1% threshold has been met under 602(E)(1).
- March 22: Deadline for Legal Review Panel to issue decision and for Comptroller to provide Financial Impact Statement.
- March 22: Sponsor immediately returns revised petition to Supervisor, adding the Financial Impact Statement.
- April 6: Supervisor approves revised petition.
 - Sponsor now has 84 days to collect at least 75% of the minimum signatures required.
- May 21: Board holds public hearing on the Petition.
- June 29: Petition period ends if insufficient signatures have been submitted. Note that the sponsor need only submit the final collected signatures at this point, the Supervisor can verify the final signatures after the 180-day deadline has passed.

Once the Supervisor has verified that sufficient signatures have been collected, the amendment either goes directly to a referendum at the next primary or general election more than 150 days following verification (in the case of a charter amendment), or it goes to the Board for potential approval (in the case of an ordinance).

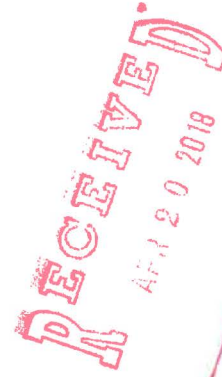
¹ Note in a non-leap year this would be March 3, and each subsequent date would be moved one day later.



COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, County Attorney

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April 18, 2018



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Municipal Code Corporation
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Tallahassee, FL 32316

**Re: Orange County, Florida Charter Amendment
Approved by Voters on November 8, 2016**

Dear Sir or Madam:

Please allow this correspondence to serve as Orange County Government's request to update the text of its Charter. On November 8, 2016, a majority of Orange County, Florida voters approved the following amendment to the Orange County Charter (underlined text indicates additions to, while ~~strike through~~ text indicates deletions from, the Orange County Charter):

County Charter Amendment Question #1:

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 601. - Initiative and referendum.

The power to propose amendment or repeal of this Charter, or to propose enactment, amendment or repeal of any county ordinance by initiative is reserved to the people of the county.

- A. *Charter.* A petition seeking to amend or repeal the Charter of Orange County shall be signed by ten (10) percent of the county electors in each commission district ~~a majority of the commission districts~~ as of January 1 of the year in which the petition is initiated. No less than 75% of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to Section 602 E. 3.

- B. *Ordinance.* A petition seeking to enact, amend or repeal an ordinance shall be signed by seven (7) percent of the county electors in each commission district as of January 1 of the year in which petition is initiated. No less than 75% of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to Section 602 E. 3.

Sec. 602. - Procedure for initiative and referendum.

A. *Initiation and Overview of Process*

The sponsor of an initiative petition shall register as a political committee as required by general law, and shall, prior to obtaining any signatures, submit the text of the proposed petition to the supervisor of elections, with the form on which signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form may be specified by ordinance. Concurrent with this submission, the sponsor of an initiative petition shall prepare and submit translations of the ballot title and ballot summary into those languages required by law for placement on the ballot. Within fifteen (15) days after the aforementioned submittals, the supervisor of elections shall render a determination on the form on which signatures will be affixed. Each initiative petition shall embrace but one subject and matter directly connected therewith. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after that date. In the event sufficient signatures are not ~~acquired~~ submitted during that one-hundred-eighty-day period, the petition drive shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. If sufficient signatures are ~~obtained~~ submitted during that one-hundred-eighty-day (180) period, the sponsor shall submit signed and dated forms to the supervisor of elections ~~who~~ shall within thirty (30) days ~~thereafter~~ verify the signatures thereon and submit a written report to the board.

B. *Form of Petition*

The form on which signatures will be affixed shall contain the ballot title, ballot summary, and full text of the charter or ordinance change proposed. Such form shall also contain an affidavit to be completed by a petition gatherer, signed and verified by the petition gatherer under penalty of perjury pursuant to Section 92.525(1) (c), Fla. Stat., for each petition gathered by that petition gatherer. Such affidavit shall specify the name and address of the petition gatherer who gathered the petition, whether the petition gatherer was a paid petition gatherer or a volunteer petition gatherer, and if paid, whether paid on an hourly basis, a per-signature basis, or some other basis therein described. Such affidavit shall also specify that the petition was signed in the petition gatherer's presence, that the petition signer had sufficient time to read the petition language, and that the petition gatherer believes the signature on the petition to be the genuine signature of the petition signer.

C. *Petition Gathering*

As used in this Charter, "petition gatherer" means any individual who gathers signatures in person for a county initiative petition. A petition gatherer gathering signatures for a county initiative petition who is not being paid to do so shall display a badge that states the words "VOLUNTEER GATHERER", in a form and manner specified by ordinance. A petition gatherer gathering signatures for a county initiative petition who is being paid to do so shall display a badge that states the words "PAID GATHERER", in a form and manner specified by ordinance. The petition gatherer shall sign and verify under penalty of perjury pursuant to Section 92.525(1) (c), Fla. Stat. the affidavit required on the petition form for each petition gathered by the petition gatherer. Petitions signed by an elector but not gathered by a petition gatherer shall not be required to have a completed petition gatherer's affidavit, but such petitions shall be submitted by the sponsor to the supervisor of elections with an accompanying statement signed and verified under penalty of perjury pursuant to Section 92.525(1)(c), Fla. Stat., averring that such accompanying petitions were submitted by the signing elector directly to the sponsor and were not collected by a petition gatherer, and stating the month during which such petitions were received by the sponsor.

D. Submission of Signed Petitions Gathered by Petition Gatherers:
Verification of Requisite Signatures

The sponsor shall submit all signed petitions gathered by petition gatherers during a month or otherwise received by the sponsor during such month to the supervisor of elections for signature verification no later than the fifth day of the following month. The supervisor of elections shall verify the validity of signatures for each signed petition submitted within thirty (30) days after submittal to the supervisor of elections. No signature shall be valid unless handwritten and submitted on a paper petition form completed and submitted in a manner consistent with this section. The supervisor of elections shall post a running tally of the number of signatures verified for each initiative petition on the supervisor of elections' website for public view. Otherwise valid signatures not timely submitted to the supervisor of elections shall not be counted towards the total number of signatures required under Section 601.

E. Legal Review, Financial Impact; Public Hearing

1. One Percent Threshold. Upon verification by the supervisor of elections that a petition has been signed by at least one (1) percent of the county electors in each commission district, the supervisor of elections shall so notify the board, the comptroller and the Legal Review Panel.
2. Legal Review Panel. The Legal Review Panel shall be a panel of three (3) persons licensed to practice law in the state of Florida who have demonstrated experience in Florida local government law, and who shall be selected on a bi-annual basis through the county's procurement process applicable to legal services. The Legal Review Panel shall meet and render a determination, within twenty (20) days after notification pursuant to Section 602 E. 1. by the supervisor of elections, whether the proposed initiative petition, including ballot title, ballot summary, proposal language, and ballot language translations, embraces but one subject and matter directly connected therewith, and is

not inconsistent with the Florida Constitution, general law, or the restrictions of the Charter. If at least two (2) members of the Legal Review Panel determine that the proposed initiative petition embraces but one subject and matter directly connected therewith, and is not inconsistent with the Florida Constitution, general law, or the restrictions of the Charter, then the Legal Review Panel shall render a written opinion setting forth its determination and the reasons therefor, and shall so notify the board, the supervisor of elections, and the sponsor of the petition. If at least two (2) members of the Legal Review Panel determine that the proposed initiative petition does not embrace but one subject and matter directly connected therewith, or is inconsistent with the Florida Constitution, general law, or the restrictions of the Charter, then the Legal Review Panel shall render a written opinion setting forth its determination and the reasons therefor, and shall so notify the board, the supervisor of elections, and the sponsor of the petition. In such case, the petition drive shall thereafter terminate, and none of the signatures acquired in such a petition drive may be carried over onto another petition.

3. *Financial Impact Statement.* Within twenty (20) days after notification pursuant to Section 602 E. 1. by the supervisor of elections, the comptroller shall prepare and transmit to the board, supervisor of elections, and the sponsor of the petition, a financial impact statement, not exceeding seventy-five (75) words, including the estimated increase or decrease in any revenues or costs to the county or local governments or to the citizens resulting from the approval of the proposed initiative petition. The comptroller shall also prepare translations of the financial impact statement into those languages required by law for placement on the ballot. Upon receipt of the financial impact statement, the sponsor of the petition shall prepare and submit to the supervisor of elections for review and approval a revised petition form containing the financial impact statement,

which statement shall be separately contained and placed immediately following the ballot summary. The supervisor of elections shall, within fifteen (15) days after submittal of the revised petition form containing the financial impact statement, render a determination on the form of the revised petition.

4. Public Hearing. Within sixty (60) days after notification of legality by the Legal Review Panel, the board shall hold a public hearing on the petition, at which the sponsor of the initiative petition, the board, and the public may comment on the petition.

F. Termination of Petition Drive by Sponsor; Withdrawal of Signature by Petition Signer

A sponsor of an initiative petition may terminate a petition drive by filing with the supervisor of elections a completed initiative termination form promulgated by the supervisor of elections. Prior to final verification of sufficient signatures for an initiative petition by the supervisor of elections, a petition signer may withdraw his or her signature by filing with the supervisor of elections a completed signature withdrawal form adequately identifying the petition signer and petition drive, promulgated by the supervisor of elections and available to print from the supervisor of elections' website.

G. Referendum

- A. — 1. Charter. ~~Within thirty (30) days a~~ After the requisite number of ~~names~~ signatures have been verified by the supervisor of elections ~~and reported to the board, the board shall, by resolution, call a referendum shall be held~~ on the question of the adoption of the proposed petition ~~to be held at the next primary, or general or special election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the supervisor of elections. The comptroller's financial impact statement shall be separately contained and placed on the ballot immediately following the corresponding ballot summary.~~ If the question of the adoption of the proposed petition is approved by a majority

of those registered electors voting on the question, the proposed petition shall be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1 of the succeeding year. A charter amendment adopted by initiative may not be amended or repealed for a period of one (1) year after its effective date.

B.—2. Ordinance. Within thirty (30) days after the requisite number of ~~names—signatures~~ have been verified by the supervisor of elections and reported to the board, the board shall notice and hold a public hearing on the proposed petition according to law and vote on it. If the board fails to adopt the proposed petition, the board shall so notify the supervisor of elections, and it shall, by resolution, call a referendum shall be held on the question of the adoption of the proposed petition ~~to be held~~ at the next primary; or general ~~or special~~ election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the supervisor of elections. The comptroller's financial impact statement shall be separately contained and placed on the ballot immediately following the corresponding ballot summary. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be declared by resolution of the board to be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1, of the succeeding year. The board shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.

C.—3. The initiative power shall not be restricted, except as provided by general law and this Charter.

4. Charter amendments and ordinances by initiative appearing on the ballot shall be numbered using alphabet lettering and placed in the following order: first, charter amendments proposed by the Charter review commission; next, charter amendments proposed by the board; next,

charter amendments proposed by initiative petition; and last, ordinances by initiative. In each case, the article and section of the charter or code of ordinances being created or amended shall be stated along with the title.

Sec. 603. - Limitation.

- A. The power to enact, amend or repeal an ordinance by initiative shall not include ordinances relating to administrative or judicial functions of county government, including but not limited to, county budget, debt obligations, capital improvement programs, salaries of county officers and employees and the levy and collection of taxes.
- B. The power to amend this charter by initiative, or to enact, amend or repeal an ordinance by initiative, shall not extend to the regulation of employer wages, benefits or hours of work, the encumbrance or allocation of tax revenues for any purpose not then authorized by law, or the encumbrance or allocation of tax revenues conditioned upon a prospective change in Florida law.
- ~~C. Notwithstanding any other provision of this charter, the board is prohibited from calling a referendum on the question of the adoption of any proposed charter amendment or ordinance by initiative which, in the determination of the board, is wholly or partially violative of the limitations of this section or Florida law.~~
- DC. Notwithstanding any other provision of this charter, the board is prohibited from declaring enacted any ordinance by initiative which, in the determination of the board, is wholly or partially violative of the limitations of this section or Florida law.

If there are any questions regarding this information, please don't hesitate to contact my office. For your use and reference, enclosed, please find the Orange County Supervisor of Elections certification of the votes.

Thank you for your attention to this matter.

Sincerely,



Kate Latorre
Assistant County Attorney

Enclosures: Certification of Orange County Supervisor of Elections

Copy: Phil Diamond, CPA, Orange County Comptroller
Jeffrey Newton, Orange County Attorney

*** Official ***
**CERTIFICATE OF COUNTY CANVASSING BOARD
ORANGE COUNTY**

We, the undersigned, JEANETTE BIGNEY, Chair, County Judge, BRYAN NELSON, County Commissioner, TANYA WILSON, County Judge, constituting the Board of County Canvassers in and for said County, do hereby certify that we met on the Eighteenth day of November, 2016 A.D., and proceeded publicly to canvass the votes given for the Proposed Amendments to the Constitution of the State of Florida and referendums on the Eighth day of November, 2016 A.D. as shown by the returns on file in the office of the Supervisor of Elections. We do hereby certify from said returns as follows:

**NO. 1
CONSTITUTIONAL AMENDMENT
ADD NEW SECTION 29 TO ARTICLE X
RIGHTS OF ELECTRICITY CONSUMERS REGARDING
SOLAR ENERGY CHOICE**

This amendment establishes a right under Florida's constitution for consumers to own or lease solar equipment installed on their property to generate electricity for their own use. State and local governments shall retain their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do.

Yes for Approval	248,500	votes
No for Rejection	268,303	votes

**NO. 2
CONSTITUTIONAL AMENDMENT
ARTICLE X, SECTION 29
USE OF MARIJUANA FOR DEBILITATING MEDICAL
CONDITIONS**

Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not immunize violations of federal law or any non-medical use, possession or production of marijuana.

Yes for Approval	384,133	votes
No for Rejection	141,221	votes

**NO. 3
CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 6 & ARTICLE XII
TAX EXEMPTION FOR TOTALLY AND PERMANENTLY
DISABLED FIRST RESPONDERS**

Proposing an amendment to the State Constitution to authorize a first responder, who is totally and permanently disabled as a result of injuries sustained in the line of duty, to receive relief from ad valorem taxes assessed on homestead property, if authorized by general law. If approved by voters, the amendment takes effect January 1, 2017.

Yes for Approval	447,687	votes
No for Rejection	65,102	votes

*** Official ***
CERTIFICATE OF COUNTY CANVASSING BOARD
ORANGE COUNTY

NO. 5
CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 6 & ARTICLE XII
HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR,
LOW-INCOME, LONG-TERM RESIDENTS; DETERMINATION
OF JUST VALUE

Proposing an amendment to the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities for property with just value less than \$250,000 owned by certain senior, low-income, long-term residents to specify that just value is determined in the first tax year the owner applies and is eligible for the exemption. The amendment takes effect January 1, 2017, and applies retroactively to exemptions granted before January 1, 2017.

Yes for Approval	409,514	votes
No for Rejection	97,879	votes

CHARTER AMENDMENT QUESTION #1

Yes for Approval	313,519	votes
No for Rejection	156,466	votes

CHARTER AMENDMENT QUESTION #2

Yes for Approval	334,641	votes
No for Rejection	148,819	votes

CHARTER AMENDMENT QUESTION #3

Yes for Approval	331,075	votes
No for Rejection	138,521	votes

We Certify that pursuant to Section 102.112, Florida Statutes, the canvassing board has compared the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.

 11/18/2016

CHAIR, COUNTY JUDGE

 11-18-16

COUNTY COMMISSIONER

 11-18-16

COUNTY JUDGE

JUL 29 2014 KHBS

ORDINANCE NO. 2014-19

EFFECTIVE DATE

JUL 31 2014

AN ORDINANCE PERTAINING TO THE ORANGE COUNTY CHARTER; AMENDING SECTION 602, PROCEDURE FOR INITIATIVE AND REFERENDUM, RELATED TO PROCEDURAL TIME-FRAMES FOR CHARTER AND ORDINANCE AMENDMENTS BY INITIATIVE; CALLING A REFERENDUM ON THE PROPOSED CHARTER AMENDMENT; PROVIDING THE BALLOT TITLE AND SUMMARY FOR THE REFERENDUM; CONDITIONING THE EFFECTIVENESS OF THE CHARTER AMENDMENT ON VOTER APPROVAL AT THE REFERENDUM; PROVIDING FOR OTHER RELATED MATTERS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR EFFECTIVE DATES.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
ORANGE COUNTY, FLORIDA:

Section 1. Charter Amendment. Section 602 of the Orange County Charter is amended to read as follows:

Sec. 602. Procedure for initiative and referendum.

The sponsor of an initiative petition shall, prior to obtaining any signatures, submit the text of the proposed petition to the supervisor of elections, with the form on which signatures will be affixed, and shall obtain the approval of the supervisor of elections of such form. The style and requirements of such form may be specified by ordinance. The beginning date of any petition drive shall commence upon the date of approval by the supervisor of elections of the form on which signatures will be affixed, and said drive shall terminate one hundred eighty (180) days after that date. In the event sufficient signatures are not acquired during that one hundred eighty-day period, the petition drive shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. If sufficient signatures are obtained, the sponsor shall submit signed and dated forms to the supervisor of elections who shall within thirty (30) days verify the signatures thereon and submit a written report to the board.

A. Charter. Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least one hundred fifty (150) ~~forty-five (45)~~ days after verification of sufficient signatures by the supervisor of elections ~~the adoption of such resolution~~. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1 of the succeeding year.

B. Ordinance. Within thirty (30) days after the requisite number of names have been verified by the supervisor of elections and reported to the board, the board shall notice and hold a public hearing on the proposed petition according to law and vote on it. If the board fails to adopt the proposed petition, it shall, by resolution, call a referendum on the question of the adoption of the proposed petition to be held at the next primary, general or special election occurring at least one hundred fifty (150) ~~forty-five (45)~~ days after verification of sufficient signatures by the supervisor of elections ~~the adoption of such resolution~~. If the question of the adoption of the proposed petition is approved by a majority of those registered electors voting on the question, the proposed petition shall be declared by resolution of the board to be enacted and shall become effective on the date specified in the petition, or, if not so specified, on January 1, of the succeeding year. The board shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.

C. The initiative power shall not be restricted, except as provided by general law and this Charter.

Section 2. Referendum Called. Pursuant to its authority and duty under Article VII of the Orange County Charter, the Board of County Commissioners calls a referendum on the amendment to the charter set forth in Section 1. The referendum shall be held at the general election to be held on November 4, 2014. The ballot title and ballot summary for the referendum shall be as follows:

**COUNTY CHARTER AMENDMENT REGARDING
ELECTIONS ON CITIZEN PETITION INITIATIVES**

For the purpose of allowing citizens more time to consider referendum elections on initiative petitions and to provide certainty regarding petition submittal requirements, shall the Orange County Charter be amended to require petition initiatives to have sufficient signatures verified at least 150 days prior to the next primary, general or special election?

_____ Yes

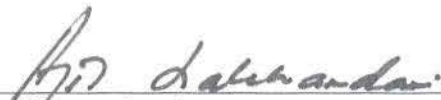
_____ No

Section 3. Severability. If any section, subsection, sentence, clause, or provision of this ordinance or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect any other provision or application of this ordinance, and to this end the provisions of this ordinance are declared severable.

Section 4. Effective Date. This ordinance shall take effect upon its enactment. However, the amendment to the Orange County Charter in Section 1 shall take effect only if and when approved by a majority of the electors voting in the referendum called by the Board in Section 2.

ADOPTED THIS 29th DAY OF July, 2014.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: 
Teresa Jacobs
County Mayor

ATTEST: Martha O. Haynie, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: 
Deputy Clerk



MEMORANDUM

To: 2020 Charter Review Commission (CRC)

From: M. Soraya Smith, Chair, Citizen Initiated Charter and Ordinance Amendment Process Committee

Re: Approval for Extended Topic Review

Date: January 24, 2020

ORIGINAL OBJECTIVE

Evaluate citizen-initiated charter amendments & repeals to lower the petition threshold (currently 10%)
Evaluate citizen-initiated amendments, enactments, and repeals to lower the petition threshold (currently 7%)

BACKGROUND

Members of the CRC Committee on Citizen Initiated Charter and Ordinance Amendment Process convened on January 8, 2020, 4:00 p.m., to further discuss findings from a variety of resources surrounding the study of lowering the petition threshold for citizen-initiated Charter and Ordinance amendments, enactments and repeals. Following the review of submitted data, historical documents (Supervisor of Elections, League of Women voters) proposal summary review from member Vilchez Santiago, CRC Legal Counsel, and public comment, the committee has moved to not make any changes to the existing threshold percentages outlined in the current Citizen Initiated Charter and Ordinance Amendment Process.

The provided historical documents, legal summaries, data, and citizen input did subsequently highlight the limiting components of the currently outlined 180-day processes/timeline in Orange County Charter (Article VI Section 601) available for Orange County citizens. Therefore, the Citizen Initiated Charter and Ordinance Amendment Process Committee moves to continue its work to ensure this process in no way limits citizens from successfully carrying out a citizen-initiated charter or ordinance amendment petition including tolling considerations given the multiple county departments required to move forward in this petition process (Supervisor of Elections, County Board of Commissioners, Comptroller's Office and the appointed Legal Review Panel).

ACTION REQUESTED

The Citizen Initiated Charter and Ordinance Amendment Process Committee of the 2020 CRC requests authority from the full CRC to look at all aspects of the 180-day timeline limitation as it affects the petitioner's ability to proceed in a timely basis with a citizen initiative petition.

For your quick reference, I have attached a copy of the Petition Timeline as provided by the Supervisor of Elections Office-Bill Cowles on December 2, 2019, extracted from Attachment H page 6.

/Attachment



Memo

February 27, 2020

To: Members of the Citizen-Initiated Charter and Ordinance Amendment Process

From: Patrick Brackins

CC: charter2020@occompt.com

Issue: Is the Supervisor of Elections' *Petition Timeline* accurate where it states the “Board” will render a decision on a petition twenty (20) days after being notified by the Supervisor of Elections that the sponsor has reached the 1% threshold?

Answer: No. The decision being referenced in the memo is actually a reference to the decision to be rendered by the legal review panel, which the Supervisor incorrectly calls “the board.”

At the February 19, 2020 meeting of the Citizen-Initiated Charter and Ordinance Amendment Process Committee (the “Committee”), it was provided with a December 2, 2019 letter and package from Bill Cowles, the Orange County Supervisor of Elections (the “SOE”). Included within the package, at Attachment H, is a “Petition Timeline” setting forth the scheduling milestones contained in the 2016 Charter Revisions. The Petition Timeline is **not** part of the charter or an ordinance, but is simply a document prepared by the SOE describing the charter’s deadlines and requirements for citizen initiatives. Attached hereto as Exhibit 1 is a composite exhibit containing the SOE’s correspondence and the Petition Timeline.

A question arose from the Committee regarding the following language in the Petition Timeline: “Upon reaching the 1% threshold, the SOE shall notify the board. The board shall render its decision within twenty days after notification.” The Committee appeared to believe that the Petition Timeline’s use of the term “board” in the above excerpt meant the Board of County Commissioners (the “BCC”). This was a reasonable interpretation because two lines later the Petition Timeline’s use of the term “board” unquestionably refers to the BCC. The Committee presumed that the Petition Timeline accurately

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reflected the law as it exists in the charter and questioned why the BCC would render a decision early in the process and then hold a public hearing later in the process.

At the meeting, general counsel advised the Committee that it appeared the SOE's Petition Timeline used imprecise language when describing the legal review process contained in the charter. The Committee asked general counsel to examine the accuracy of the language contained in the SOE's Petition Timeline and to provide a memorandum regarding same.

The language used by the SOE, specifically the reference that "[t]he board shall render its decision within twenty days after notification," is incorrect. Section 602(E)(1) of the Charter provides:

One (1) percent threshold: Upon verification by the [SOE] that a petition has been signed by at least one (1) percent of the county electors in each commission district, the [SOE] shall so notify the board, the comptroller and the legal review panel. (Emphasis added).

The Petition Timeline accurately states that SOE will notify the board, meaning the BCC, but then skips over the precise role played by the Legal Review Panel. Immediately thereafter, subsection (E)(2) of the charter provides that the Legal Review Panel (not the BCC):

[S]hall meet and render a determination, within twenty (20) days after notification [from the SOE] whether the proposed initiative petition, including ballot title, ballot summary, proposal language, and ballot language translations, embraces but one (1) subject and matter directly connected therewith and is not inconsistent with the Florida Constitution, general law, or the restriction of the Charter.

Sec. 602(E)(2) (emphasis added). Thus, when the SOE's Petition Timeline refers to the "board" in the statement "[t]he board shall render its decision within twenty days after notification," the SOE meant to refer to the Legal Review Panel, rather than the BCC, which renders its decision on legal sufficiency under the charter within twenty (20) days after being notified by the SOE that a sponsor has reached the 1% threshold.

The Legal Review Panel consists of "a panel of three (3) persons licensed to practice law in the State of Florida who have demonstrated experience in Florida local government law, and who shall

be selected on a bi-annual basis through the county's procurement process applicable to legal services." *Id.* The Charter further provides:

If at least two (2) members of the legal review panel determine that the proposed initiative petition does not embrace but one (1) subject and matter directly connected therewith, or is inconsistent with the Florida Constitution, general law, or the restrictions of the Charter, then the legal review panel shall render a written opinion setting forth its determination and the reasons therefor, and shall so notify the [BCC], the [SOE], and the sponsor of the petition.

Id. In the event the Legal Review Panel issues a negative opinion as to legality, then "the petition drive shall thereafter terminate, and no of the signatures acquired in such a petition drive may be carried over onto another petition." *Id.*

The BBC does not become involved until after the SOE, Legal Review Panel, and Comptroller conduct their respective responsibilities under the Charter. Then, "[w]ithin sixty (60) days after notification of legality by the legal review panel, the [BCC] shall hold a public hearing on the petition, at which the sponsor of the initiative petition, the [BCC], and the public may comment on the petition." *Id.* at Sec. 602(E)(4). The Charter does not provide further details regarding the public hearing. However, the charter is clear that BCC only holds one (1) public hearing sixty (60) days after being notified of the Legal Review Panel's legality determination and the BCC does not render a separate decision twenty (20) days after it receives notification that the sponsor has reached the 1% threshold. Accordingly, the "board" referred to in that portion of the SOE's Petition Timeline quoted above refers to the Legal Review Panel and not the BCC.

Exhibit 1

BILL COWLES

Supervisor of Elections
Orange County, Florida



OUR MISSION IS TO:

Ensure the integrity of the electoral process.
Enhance public confidence.
Encourage citizen participation.

To: Cliff Sheppard, Orange County CRC Legal Counsel
From:  Bill Cowles, Orange County Supervisor of Elections

Date: December 2, 2019

Re: Orange County Initiative Petition History

Prior to the 2016 Charter Revisions-

1. July 1, 1997, "Petition to Enact an Ordinance in Orange County, FL." **(Attachment A)**
Petition was not approved. See memo from County Attorney's office.
2. February 18, 2004, "To elect the office of Chief of Orange County Jail." **(Attachment B)**
Petition was approved. No petitions were submitted.
3. May 31, 2012, "Petition to Place Orange County Ordinance for Earned Sick Time for Employees of Business in Orange County." **(Attachment C)**
Petition was approved. A total of 73,841 petitions were submitted.
4. October 16, 2012, "Changing Elections for Charter Office from Nonpartisan to Partisan Elections and Removing Run-off Provision." **(Attachment D)**
Petition was approved. A total of 15,745 petitions were submitted prior to disbandment.
5. December 19, 2013, "Petition to Place Orange County Charter Amendment on Use of Tourist Development Tax on Ballot." **(Attachment E)**
Petition was approved. No petitions were submitted.
6. February 24, 2014, "Petition to Place Orange County Charter Amendment Regarding Save Our Children from Common Core." **(Attachment F)**
Petition was approved. No petitions were submitted.

After the 2016 Charter Revisions-

1. April 26, 2018, "R.U.R.A.L. Boundary Petition Initiative." **(Attachment G)**
Petition was approved. No petitions were submitted.

Also find enclosed charter initiative petition forms and petition timelines effective subsequent to the 2016 Charter Revisions. **(Attachment H)**.

Cc: Soraya Smith, Chair, CRC Citizen Initiative Subcommittee
Katie Smith, Deputy Clerk, Orange County Comptroller Office

119 West Kaley Street, Orlando ■ Reply to: Post Office Box 562001, Orlando, Florida 32856
Phone (407) 836-2070 ■ Fax (407) 254-6596 ■ TDD (407) 422-4833 ■ Internet: www.ocfelections.com

Attachment H

Petition _____

Ballot Title _____

Sponsoring Political Committee _____

Petition Timeline-

Initiative petition sponsors must register as a PAC and, prior to obtaining any signatures, shall submit the text of the proposed petition to the SOE, with the form on which signatures will be affixed, and shall obtain the approval of the SOE of such form. **Text Submittal Date-** _____

SOE shall make a determination regarding the approval of the form within fifteen days. **SOE Approval Date-** _____

The date of approval by the SOE marks the beginning of the 180 day time frame for the petition drive, after which the petition drive shall terminate. **180 Day Termination Date-** _____

If sufficient signatures are submitted, the SOE shall within thirty days thereafter verify the signatures therein and submit a written report to the board. **SOE Written Report Submittal Date-** _____

The sponsor shall submit all signed petitions gathered by petition gatherers during a month or otherwise received by the sponsor during such month to the SOE for signature no later than the fifth day of the following month. The SOE shall verify the validity of signatures for each signed petition within thirty days after submittal.

Upon reaching the 1% threshold, the SOE shall notify the board. The board shall render its decision within twenty days after notification. **SOE Board Notification Date-** _____ **Board Decision Date-** _____

After notification by the SOE regarding the 1% threshold, the comptroller shall, within twenty days after notification, prepare and transmit a financial impact statement. The sponsor of the petition shall then submit a revised petition form containing the financial impact statement to the SOE. The SOE shall, within fifteen days after submittal of the revised petition containing the financial impact statement, render a determination.

Comptroller Financial Impact Statement Date- _____ **SOE Revision Determination Date-** _____

Within sixty (60) days after notification of legality by the Legal Review Panel, the board shall hold a public hearing on the petition. **Public Hearing Date-** _____

Referendum

Charter- After the requisite number of signatures have been verified by the SOE, a referendum shall be held on the question of adoption of the proposed petition at the next primary, or general election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the SOE.

Ordinance- Within thirty (30) days of the requisite number of signatures have been verified by the SOE, the board shall notice a public hearing on the proposed petition and vote on it. If the board fails to adopt the proposed petition, the board shall notify the SOE a referendum shall be held on the adoption of the proposed petition at the next primary or general election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the SOE.



Memo

Date: April 14, 2020

To: Members of the Citizen-Initiated Charter and Ordinance Amendment Process

From: Patrick Brackins

CC: charter2020@occompt.com

Re: What are the precise deadlines for the principals involved in the 180-day process?

1. There is no deadline for the sponsor to present the Supervisor of Elections (“SOE”) with the proposed petition. After registering “as a political committee as required by general law,” but before obtaining any signatures, the sponsor must submit the text to the SOE and the form where signatures will be placed for approval by the SOE. Sec. 602(A).

2. The SOE has fifteen (15) days after the sponsor submits the petition and signature form to “render a determination on the form on which signatures will be affixed.” The date the SOE approves the form on which signatures will be submitted is the date the 180-day period begins to run. Sec. 602(A).

3. Once approved, the sponsor must submit all signed petitions during the month in which they were received to the SOE for signature verification no later than the fifth day of the following month. Sec. 602(D).

4. There is no deadline, other than the 180-day deadline, for the sponsor to reach the 1% threshold. If the sponsor doesn’t meet all criteria within the 180-day deadline, then

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the petition is null and void. However, the SOE is required to “post a running tally of the number of signatures verified for each initiative petition on the SOE’s website for public view.” Each month when signatures are submitted, the SOE “shall verify the validity of the signatures for each petition submitted within 30-days after submittal to the SOE.” Thus, there is natural delay where the sponsor submits signatures gathered during the month and then the SOE has 30-days to verify those signatures while keeping a running tally on the SOE’s website.

5. There is no deadline, other than the 30-day deadline to verify signatures, for the SOE to notify the County Commission, the Comptroller, and Legal Review Panel that the sponsor has reached the one (1%) percent threshold. Sec. 602(E).

6. The Legal Review Panel must render a legal determination within twenty (20) days. After receiving notice of the 1% threshold by the SOE, the Legal Review Panel has twenty days to render a decision as to “whether the proposed initiative petition, including ballot title, ballot summary, proposal language, and ballot language translations, embraces but one (1) subject and matter directly connected therewith, and is not inconsistent with the Florida Constitution, general law, or the restrictions of the Charter.” If the Legal Review Panel finds the proposal is inconsistent or embraces more than one subject, it must render a written opinion and notify the board, the SOE and the sponsor. The petition then terminates. If the Legal Review Panel finds the proposal is consistent and embraces only one subject, then it issues a written opinion and notifies the board, the SOE and the sponsor. Sec. 602(E)(1)-(2).

7. The Comptroller has twenty (20) days to prepare a financial impact statement after being notified by the SOE that the sponsor has reached the 1% threshold. The financial

impact statement may not exceed seventy-five (75) words and must be transmitted to the board, the SOE and the sponsor. Sec. 602(E)(3).

8. The Twenty (20) day deadlines for the Legal Review Panel and the Comptroller run concurrently. Sec. 602(E)(1)-(3).

9. Once the sponsor receives the financial impact statement, the sponsor is required to prepare and submit to the SOE for review and approval a revised petition form containing the financial impact statement. Sec. 602(E)(3).

10. The SOE has fifteen days after the revised petition is submitted to render a determination on the form of the revised petition. Sec. 602(E)(3). This determination is limited to the sufficiency of the form of the revised petition similar to the sufficiency review performed by the SOE in paragraph 2 above.¹

11. The Board of County Commissioners has sixty (60) days from the date it received notice of the Legal Review Panel's determination to hold a public hearing on the petition, at which the sponsor, the Board, and the public may comment on the petition. Sec. 602(E)(4).

A shorthand version of the timeline and deadlines is as follows:

1. Sponsor submits original proposed petition and signature form to SOE;
2. SOE has 15 days from the date of submittal to approve the form;

¹ "No less than seventy-five (75) percent of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to section 602.E.3." Sec. 601(A). This provision is significant because it means that the sponsor cannot simply continue to gather signatures on the original petition forms while the review is undertaken but must wait until the new form is approved, thus wasting valuable time in the signature collection process.

3. 180-day period begins on the date the SOE approves the form of the original petition;
4. Petitioner then gathers signatures until 1% threshold is met;
5. Each month the sponsor must submit signatures to SOE for verification and SOE has 30 days to verify signatures. This 30-days is not directly connected to or contingent upon the other deadlines;
6. Once SOE determines the 1% threshold is met it notifies the Board, the Legal Review Panel, and the Comptroller;
7. Other than the thirty (30) days deadline the SOE has each month to verify signatures, there is no independent deadline stating how much time the SOE has to notify the Board, the Legal Review Panel and the Comptroller that the 1% threshold has been met;
8. Legal Review Panel has twenty (20) days to render a decision after receiving notice of the 1% threshold from the SOE;
9. The Comptroller has twenty (20) days to render a financial impact statement after receiving notice of the 1% threshold from the SOE;
10. Once the sponsor receives the financial impact statement it is required to submit a revised petition to the SOE. (No deadline for sponsor);
11. Once the SOE receives the revised petition it has fifteen (15) days to determine whether the revised form is valid. 75% of all required petition signatures must be on the revised petition;
12. The Board has sixty (60) days from the date it is notified by the Legal Review Panel that the petition is consistent and embraces but one subject to hold a public hearing where the sponsor, the Board and the public may be heard; and

13. The SOE continues to verify signatures until the sponsor reaches the required 10% threshold or withdraws the petition; or if the Legal Review Panel renders a negative determination the petition terminates.

2020 Orange County Charter Review Commission (CRC)

Subcommittee Proposal on the Citizen-Initiated Charter and Ordinance Amendment Process (Orange County Charter, Sec. 601)

Presented by Member Samuel Vilchez Santiago on October 22, 2019

Executive Summary

This document details CRC member Samuel Vilchez Santiago's proposal to establish a CRC subcommittee that evaluates (1) lowering the petition threshold for citizen-initiated Charter amendments and repeals from 10 percent of all registered voters per county district and (2) lowering the petition threshold for citizen-initiated Ordinance amendments, enactments and repeals from 7 percent of all registered voters per county district. Specifically, this proposal seeks the creation of a CRC subcommittee to study Section 601 of the Orange County Charter. In addition, this document specifies some of the reasoning behind this proposal, including the total number of registered voters per county district and the number of necessary signed petitions under the current and proposed language. It also includes a description of how difficult it is to place a charter/ordinance amendment-related ballot question through the citizen-initiated process, detailing potential costs and hours of work based on estimates. Finally, this document presents a brief summary of citizen-initiated charter and ordinance amendment processes in other similarly populated Florida counties, demonstrating Orange County's current petition threshold to be significantly higher than its counterparts.

Orange County Charter, Section 601

"Article VI - Initiative, Referendum and Recall

Sec. 601 - Initiative and Referendum

The power to propose amendment or repeal of this Charter, or to propose enactment, amendment or repeal of any county ordinance by initiative is reserved to the people of the county.

- A. *Charter*. A petition seeking to amend or repeal the Charter of Orange County shall be signed by **ten (10) percent** of the county electors in each commission district as of January 1 of the year in which the petition is initiated. No less than seventy-five (75) percent of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to section 602.E.2.
- B. *Ordinance*. A petition seeking to enact or repeal an ordinance shall be signed by **seven (7) percent** of the county electors in each commission district as of January 1 of the year in which petition is initiated. No less than seventy-five (75) percent of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to section 602.E.3

(Amended November 1988; Amended November 2016¹).”

Practical Meaning of Orange County Charter Section 601

a. Number of needed petitions per county district:

For voters to initiate a successful Charter or Ordinance amendment or repeal, they would have to collect the following amount of qualifying petitions from voters in each county commission²:

County Commission District	Total number of registered voters³	Petitions needed to propose a Charter amendment or repeal	Petitions needed to propose an Ordinance amendment, enactment or repeal
		Total number of petitions needed under current 10% threshold	Total number of petitions needed under current 7% threshold
District 1	158,625	15,863	11,104
District 2	131,410	13,141	9,199
District 3	142,287	14,229	9,961
District 4	156,514	15,652	10,956
District 5	150,774	15,078	10,555
District 6	103,041	10,305	7,129
County Total	842,651	84,268	58,904

b. Calculating the potential costs of citizen-initiated charter or ordinance amendment proposals:

[According to the National Democratic Training Committee](#), a volunteer should be expected to knock on about 20 doors per hour, with an average 25% success rate. This means that a volunteer door-knocker is expected to talk to about 5 voters per hour. If we project a 60% success rate on petition-gathering - a very optimistic projection for any campaign - then a volunteer is likely to obtain 3 signed qualifying petitions in one hour.

¹ Information highlighted in yellow represents what was amended on November 2016. For more information, please review the Orange County 2016 Charter Review Commission Final Report, pages 13 and 14.

² Based on [official voter registration numbers from the Orange County Supervisor of elections](#) as of October 1, 2019.

³ As of October 1, 2019.

That means that in order to reach the 84,268 petitions to place a citizen-initiated charter amendment question on the ballot, the proposing party/team would need about 28,089 hours of work,⁴ without taking into account hours needed for planning and organizing purposes.

Let's now suppose that each volunteer gives 40 hours of their time to the petition-gathering cause - another goal that most political operatives would probably deem as difficult to achieve. If that's the case, the proposing party/group would need about 702 committed volunteers to gather enough petitions to place a charter amendment question on the ballot.⁵ In other words, a successful petition-gathering campaign for a charter amendment proposal is likely to require more volunteers than most Orange County political campaigns.

Likely, this means that any successful petition-gathering campaign will require paid canvassers. At the market rate of \$15 per hour per canvasser, the campaign would need about \$421,335 to just cover canvassing costs.⁶ This is again without taking into account planning and organizing costs. In a best case scenario situation, a proposing party/group would implement a strategy that combines volunteers and paid canvassers. Yet, even in that case, the costs could still range in the hundreds of thousands of dollars, making it almost impossible for any true grassroots community groups to successfully propose a charter amendment.

As well, given the 7 percent petition threshold, those proposing citizen-initiated ordinance amendments face a similar situation. In fact, in order to gather 58,904 qualifying petitions, an ordinance amendment proposing party/group would need to spend about 19,635 hours door knocking,⁷ requiring about 491 committed volunteers who spend at least 40 hours collecting petitions.⁸ If instead of volunteers the proposing team/group utilizes paid canvassers, they are expected to spend about \$295,000 just to cover petition-gathering efforts.⁹ Once again, the petition-gathering process appears too expensive for regular citizens and grassroots organizations to cost.

Thus, as currently established by the Orange County Charter, the citizen-initiated charter amendment process hinders true local citizen participation by making petition-gathering campaigns unnecessarily costly, which often leads to overrepresentation of issues backed by economically affluent groups and individuals as well as outside interest groups that include unaccountable Political Action Committees (PACS).

⁴ 84,268 petitions divided by 3 petitions per hour estimate = 28,089.3

⁵ 28,089 hours of work divided by 40 hours per volunteer = 702.2

⁶ \$15 per hour times 28,089 hours required to collect all petitions = \$421,335

⁷ 58,904 petitions divided by 3 petitions per hour estimate = 19,634.7

⁸ 19,635 hours of work divided by 40 hours per volunteer = 490.9

⁹ \$15 per hour times 19,635 hours required to collect all petitions = \$294,525

Petition thresholds for citizen-initiated Home Rule Charter amendment proposals in other similarly populated¹⁰ Florida counties

- **Palm Beach County**:¹¹ **7 percent** of the number of voters eligible to vote in the last general election (Sec. 6.3).
- **Broward County**: **7 percent** of the number of voters eligible to vote in the last general election (Sec. 7.01D4).
- **Pinellas County**: **10 percent** of the number of voters eligible to vote in the last general election (Sec. 6.02).
- **Hillsborough County**: **8 percent** of the votes cast in each of [the county commission] districts and the county as a whole in the last preceding election in which a President or presidential elections were chosen (Sec. 8.03).
- **Jacksonville (Duval County)**:¹² **5 percent** of the total number of registered voters in the city at the time of the last preceding general consolidated government election for first petition on a given proposed reform.

Orange County's current 10 percent petition thresholds for citizen-initiated home rule charter amendments or repeals ranks higher than other similarly populated counties in the state of Florida. This is yet another reason to consider an evaluation of Section 601 of the Orange County Charter.

Concluding Thoughts and Call for Further Research

This document has highlighted some of the inadequacies of Orange County's current high thresholds for citizen-initiated charter and ordinance amendments or repeals to make it to the ballot for voters to decide. This document is primarily designed to serve as an initial step toward the potential change of Section 601 of the Orange County Charter, establishing a call for the creation of a 2020 CRC sub-committee to study this important issue that directly impacts our local democratic process. Some of the potential topics for further research include an evaluation of past CRC discussions on amending Section 601 of the County's charter, listening to groups that have gone through the amendment petition process, and prompting the Supervisor of Elections office to study past failed and successful local petition campaigns for charter/ordinance amendments or repeals. Lastly, and most importantly, such a subcommittee should also evaluate different potential petition thresholds (i.e. requiring 6% vs. 10% of voters to sign charter/ordinance amendment petitions for it to go on the ballot).

¹⁰ Each of the presented counties has a total population that ranges from 800,000 to 1,400,000 inhabitants, compared to Orange County's estimated population of 1,400,000 people ([U.S. Census Bureau](#)).

¹¹ Click on hyperlinks to access each county's home rule charter document.

¹² The City of Jacksonville and Duval County merged in 1968, creating a single entity governing of all Duval County ([City of Jacksonville](#), 2019).

2020 Orange County Charter Review Commission (CRC)

Subcommittee Proposal on the Citizen-Initiated Charter and Ordinance Amendment Process (Orange County Charter, Sec. 601)

Presented by Member Samuel Vilchez Santiago on May 31, 2019

Executive Summary

This document details CRC member Samuel Vilchez Santiago's proposal to establish a CRC subcommittee that evaluates (1) lowering the petition threshold for citizen-initiated Charter amendments and repeals from 10 percent of all registered voters per county district and (2) lowering the petition threshold for citizen-initiated Ordinance amendments, enactments and repeals from 7 percent of all registered voters per county district. Specifically, this proposal seeks the creation of a CRC subcommittee to study Section 601 of the Orange County Charter. In addition, this document specifies some of the reasoning behind this proposal, including the total number of registered voters per county district and the number of necessary signed petitions under the current and proposed language. It also includes a description of how difficult it is to place a charter/ordinance amendment-related ballot question through the citizen-initiated process, detailing potential costs and hours of work based on estimates. Finally, this document presents a brief summary of citizen-initiated charter and ordinance amendment processes in other similarly populated Florida counties, demonstrating Orange County's current petition threshold to be significantly higher than its counterparts.

Orange County Charter, Section 601

"Article VI - Initiative, Referendum and Recall

Sec. 601 - Initiative and Referendum

The power to propose amendment or repeal of this Charter, or to propose enactment, amendment or repeal of any county ordinance by initiative is reserved to the people of the county.

- A. *Charter*. A petition seeking to amend or repeal the Charter of Orange County shall be signed by **ten (10) percent** of the county electors in each commission district as of January 1 of the year in which the petition is initiated. No less than seventy-five (75) percent of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to section 602.E.2.
- B. *Ordinance*. A petition seeking to enact or repeal an ordinance shall be signed by **seven (7) percent** of the county electors in each commission district as of January 1 of the year in which petition is initiated. No less than seventy-five (75) percent of the minimum number of required signatures shall be on petition forms approved by the supervisor of elections containing the comptroller's financial impact statement pursuant to section 602.E.3

(Amended November 1988; Amended November 2016¹).”

Practical Meaning of Orange County Charter Section 601

a. Number of needed petitions per county district:

For voters to initiate a successful Charter or Ordinance amendment or repeal, they would have to collect the following amount of qualifying petitions from voters in each county commission²:

County Commission District	Total number of registered voters³	Petitions needed to propose a Charter amendment or repeal	Petitions needed to propose an Ordinance amendment, enactment or repeal
		Total number of petitions needed under current 10% threshold	Total number of petitions needed under current 7% threshold
District 1	154,010	15,401	10,781
District 2	129,309	12,931	9,052
District 3	140,392	14,040	9,828
District 4	152,863	15,287	10,701
District 5	148,354	14,836	10,385
District 6	100,769	10,077	7,054
County Total	825,697	82,572	57,801

b. Calculating the potential costs of citizen-initiated charter or ordinance amendment proposals:

[According to the National Democratic Training Committee](#), a volunteer should be expected to knock on about 20 doors per hour, with an average 25% success rate. This means that a volunteer door-knocker is expected to talk to about 5 voters per hour. If we project a 60% success rate on petition gathering - a very optimistic projection for any campaign - then a volunteer is likely to obtain 3 signed qualifying petitions in one hour.

That means that in order to reach the 82,572 petitions to place a citizen-initiated charter amendment question on the ballot, the proposing party/team would need about 27,254

¹ Information highlighted in yellow represents what was amended on November 2016. For more information, please review the Orange County 2016 Charter Review Commission Final Report, pages 13 and 14.

² Based on [official voter registration numbers from the Orange County Supervisor of elections](#) as of May 1, 2019.

³ As of May 1, 2019.

hours of work⁴ without taking into account hours needed for planning and organizing purposes.

Let's now suppose that each volunteer gives 40 hours of their time to the petition gathering cause - another goal that most political operatives would probably deem as hard to achieve. If that's the case, the proposing party/team would need about 685 committed volunteers to gather enough petitions to place a charter amendment question on the ballot.⁵ In other words, a successful petition gathering campaign for a charter amendment proposal is likely to require more volunteers than any Orange County political campaign in history.

Likely, this means that any successful petition gathering campaign will require paid canvassers. At the market rate of \$15 per hour per canvasser, the campaign would need about \$409,000 just to cover canvassing costs.⁶ This is again without taking into account planning and organizing costs. In a best case scenario situation, a proposing party/team would implement a strategy that combines volunteers and paid canvassers, lower campaign costs. Yet, even in that case, the costs would still range in the hundreds of thousands of dollars.

As well, given the 7 percent petition threshold, those proposing citizen-initiated ordinance amendments face a similar situation. In fact, in order to gather 57,801 qualifying petitions, an ordinance amendment proposing party/team would need to spend about 19,267 hours door knocking,⁷ requiring about 485 committed volunteers who spend at least 40 hours collecting petitions.⁸ If instead of volunteers the proposing team/party utilizes paid canvassers, they are expected to spend about \$290,000 just to cover petition gathering efforts.⁹ Once again, the petition gathering process appears too expensive for regular citizens to cost.

Thus, as currently established by the Orange County Charter, the citizen-initiated charter amendment process hinders true local citizen participation by making petition gathering campaigns costly, which often leads to overrepresentation of issues backed by economically affluent groups and individuals as well as outside interest groups that include unaccountable Political Action Committees (PACS).

Petition thresholds for citizen-initiated Home Rule Charter amendment proposals in other similarly populated¹⁰ Florida counties

⁴ 82,572 petitions divided by 3 petitions per hour estimate = 27,524

⁵ 27,254 hours of work divided by 40 hours per volunteer = 681.35

⁶ \$15 per hour times 27,254 hours required to collect all petitions = \$408,810

⁷ 57,801 petitions divided by 3 petitions per hour estimate = 19,267

⁸ 19,267 hours of work divided by 40 hours per volunteer = 481.68

⁹ \$15 per hour times 19,267 hours required to collect all petitions = \$289,005

¹⁰ Each of the presented counties has a total population that ranges from 800,000 to 1,400,000 inhabitants, compared to Orange County's estimated population of 1,400,000 people ([U.S. Census Bureau](https://www.census.gov)).

- **Palm Beach County**:¹¹ **7 percent** of the number of voters eligible to vote in the last general election (Sec. 6.3).
- **Broward County**: **7 percent** of the number of voters eligible to vote in the last general election (Sec. 7.01D4).
- **Pinellas County**: **10 percent** of the number of voters eligible to vote in the last general election (Sec. 6.02).
- **Hillsborough County**: **8 percent** of the votes cast in each of [the county commission] districts and the county as a whole in the last preceding election in which a President or presidential elections were chosen (Sec. 8.03).
- **Jacksonville (Duval County)**:¹² **5 percent** of the total number of registered voters in the city at the time of the last preceding general consolidated government election for first petition on a given proposed reform.

Orange County's current 10 percent petition thresholds for citizen-initiated home rule charter amendments or repeals ranks higher than other similarly populated counties in the state of Florida. This is yet another reason to consider an evaluation of Section 601 of the Orange County Charter.

Concluding Thoughts and Call for Further Research

This document has highlighted some of the inadequacies of Orange County's current high thresholds for citizen-initiated charter and ordinance amendments or repeals to make it to the ballot for voters to decide. This document is primarily designed to serve as an initial step toward the potential change of Section 601 of the Orange County Charter, establishing a call for the creation of a 2020 CRC sub-committee to study this important issue that directly impacts our local democratic process. Some of the potential topics for further research include an evaluation of past CRC discussions on amending Section 601 of the County's charter, listening to groups that have gone through the amendment petition process, and prompting the Supervisor of Elections office to study past failed and successful local petition campaigns for charter/ordinance amendments or repeals. Lastly, and most importantly, such a subcommittee should also evaluate different potential petition thresholds (i.e. requiring 6% vs. 10% of voters to sign charter/ordinance amendment petitions for it to go on the ballot).

¹¹ Click on hyperlinks to access each county's home rule charter document.

¹² The City of Jacksonville and Duval County merged in 1968, creating a single entity governing of all Duval County ([City of Jacksonville](#), 2019).



November 6, 2019

2020 Orange County Charter Review Commission

Dear Chairman Evans and Members of the Charter Review Commission:

The Co-Presidents of the League of Women Voters of Orange County (LWVOC) cannot attend tonight's Charter Review Commission (CRC). Please accept and read into the record this letter in lieu of our personal appearance.

The League supports the citizen initiative process as a means to amend the Orange County Charter. The Citizen Initiative amendment approved in 2016 is too restrictive. Therefore,

1. We feel strongly that the citizen initiative proposal put forth by CRC Member Vilchez-Santiago deserves further consideration and study, despite the memo sent to you by your General Counsel Cliff Sheppard.
2. We believe that a committee to consider citizen initiative proposals and their important role in our Orange County Charter should be created.
3. As the individual who has worked most in depth on this issue, we urge the CRC to appoint Member Vilchez Santiago to this committee and serve as the chair.

Thank you for accepting this letter in lieu of our personal appearance and commentary.

Sincerely yours,

Gloria Pickar

Dr. Gloria Pickar, Co-President

Sandi Vidal

Sandi Vidal, Co-President

MEMORANDUM

To: 2020 Charter Review Commission (CRC)

From: M. Soraya Smith, Chair, Citizen Initiated Charter and Ordinance Amendment Process Committee

Re: Approval for Extended Topic Review

Date: January 24, 2020

ORIGINAL OBJECTIVE

Evaluate citizen-initiated charter amendments & repeals to lower the petition threshold (currently 10%)
Evaluate citizen-initiated amendments, enactments, and repeals to lower the petition threshold (currently 7%)

BACKGROUND

Members of the CRC Committee on Citizen Initiated Charter and Ordinance Amendment Process convened on January 8, 2020, 4:00 p.m., to further discuss findings from a variety of resources surrounding the study of lowering the petition threshold for citizen-initiated Charter and Ordinance amendments, enactments and repeals. Following the review of submitted data, historical documents (Supervisor of Elections, League of Women voters) proposal summary review from member Vilchez Santiago, CRC Legal Counsel, and public comment, the committee has moved to not make any changes to the existing threshold percentages outlined in the current Citizen Initiated Charter and Ordinance Amendment Process.

The provided historical documents, legal summaries, data, and citizen input did subsequently highlight the limiting components of the currently outlined 180-day processes/timeline in Orange County Charter (Article VI Section 601) available for Orange County citizens. Therefore, the Citizen Initiated Charter and Ordinance Amendment Process Committee moves to continue its work to ensure this process in no way limits citizens from successfully carrying out a citizen-initiated charter or ordinance amendment petition including tolling considerations given the multiple county departments required to move forward in this petition process (Supervisor of Elections, County Board of Commissioners, Comptroller's Office and the appointed Legal Review Panel).

ACTION REQUESTED

The Citizen Initiated Charter and Ordinance Amendment Process Committee of the 2020 CRC requests authority from the full CRC to look at all aspects of the 180-day timeline limitation as it affects the petitioner's ability to proceed in a timely basis with a citizen initiative petition.

For your quick reference, I have attached a copy of the Petition Timeline as provided by the Supervisor of Elections Office-Bill Cowles on December 2, 2019, extracted from Attachment H page 6.

/Attachment

Petition _____

Ballot Title _____

Sponsoring Political Committee _____

Petition Timeline-

Initiative petition sponsors must register as a PAC and, prior to obtaining any signatures, shall submit the text of the proposed petition to the SOE, with the form on which signatures will be affixed, and shall obtain the approval of the SOE of such form. **Text Submittal Date-** _____

SOE shall make a determination regarding the approval of the form within fifteen days. **SOE Approval Date-** _____

The date of approval by the SOE marks the beginning of the 180 day time frame for the petition drive, after which the petition drive shall terminate. **180 Day Termination Date-** _____

If sufficient signatures are submitted, the SOE shall within thirty days thereafter verify the signatures therein and submit a written report to the board. **SOE Written Report Submittal Date-** _____

The sponsor shall submit all signed petitions gathered by petition gatherers during a month or otherwise received by the sponsor during such month to the SOE for signature no later than the fifth day of the following month. The SOE shall verify the validity of signatures for each signed petition within thirty days after submittal.

Upon reaching the 1% threshold, the SOE shall notify the board. The board shall render its decision within twenty days after notification. **SOE Board Notification Date-** _____ **Board Decision Date-** _____

After notification by the SOE regarding the 1% threshold, the comptroller shall, within twenty days after notification, prepare and transmit a financial impact statement. The sponsor of the petition shall then submit a revised petition form containing the financial impact statement to the SOE. The SOE shall, within fifteen days after submittal of the revised petition containing the financial impact statement, render a determination.

Comptroller Financial Impact Statement Date- _____ **SOE Revision Determination Date-** _____

Within sixty (60) days after notification of legality by the Legal Review Panel, the board shall hold a public hearing on the petition. **Public Hearing Date-** _____

Referendum

Charter- After the requisite number of signatures have been verified by the SOE, a referendum shall be held on the question of adoption of the proposed petition at the next primary, or general election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the SOE.

Ordinance- Within thirty (30) days of the requisite number of signatures have been verified by the SOE, the board shall notice a public hearing on the proposed petition and vote on it. If the board fails to adopt the proposed petition, the board shall notify the SOE a referendum shall be held on the adoption of the proposed petition at the next primary or general election occurring at least one hundred fifty (150) days after verification of sufficient signatures by the SOE.



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

April 22, 2020

Committee Recommendation

Permanent Funding of Green PLACE Committee

Committee Members:

Camille Evans, Chair
Angela Melvin
Soraya Smith
Lee Steinhauer
Eugene Stoccardo

Summary of Recommendation

On January 9, 2020, Member Eugene Stoccardo proposed a charter amendment establishing permanent funding for the annual purchase of environmentally sensitive lands in the amount of \$7,500,000.00 as an evaluation topic for the 2020 Orange County Charter Review Commission (the "CRC"). On February 5, 2020, the CRC voted to establish Permanent Funding for Green PLACE as an evaluation topic and established the subcommittee to evaluate the topic. Beginning on February 17, 2020, the Permanent Funding for Green PLACE Committee (the "Committee") held three public meetings to hear public input and consider the proposal. The Committee reviewed the proposed ballot title, summary and text amendment offered by Member Stoccardo and memorandums from the General Counsel regarding the legality of the core functions of the proposal. The Committee also heard from invited guests, including the Orange County Manager of the Office of Management and Budget, Kurt Petersen, regarding the 10 year history of expenditures from Orange County's Public Service Tax Bonds Fund, and Orange County's Environmental Program Supervisor, Beth Jackson, who provided the history of the County's environmentally sensitive land acquisitions since the mid-1990's.

After careful consideration of the information presented, the Committee voted 4-0, with one member absent, to recommend to the full CRC that no amendment to the Orange County Charter be made with respect to the Committee's evaluation topic. However, the Committee also recommends that the final CRC report forwarded to the Orange County Board of County Commissioners (the "BCC") recommends that the County actively use the

mechanisms and funding currently in place for the purchase of environmentally sensitive lands and that the County re-establish the ad-hoc committee for Green PLACE to encourage community input on identifying lands and acquisition strategies.

Reasons for Recommendation

1. Charter Amendment Mandating Budget Expenditures Preempted by State Law.

While the goal of spending \$7,500,000.00 per year for the acquisition of environmentally sensitive lands may be laudable, a mandatory charter amendment requiring the County to annually budget and spend said funds for the acquisition of environmentally sensitive lands is almost certainly preempted by Florida law, which prohibits local laws from interfering with county commissioners' discretion over the budget and millage rates. This is in contrast to a State of Florida Constitution Amendment approved by referendum because the Florida Constitution is the supreme law of the state and is only preempted by the United States Constitution and/or superior federal laws. Accordingly, the proposal would likely be unenforceable and voidable if approved by the voters.

2. The County Has the Ability to Spend \$7,500,000.00 to Annually Acquire Environmentally Sensitive Lands Under Current Funding Mechanisms.

Under Section 17-243 of the Orange County Code, the County currently is required to spend 25% of the Public Service Taxes collected annually to acquire, operate and maintain parks, environmentally sensitive lands and recreational facilities. While the \$7,500,000.00 in said taxes have recently been spent to maintain and operate public parks, those funds are available and authorized to purchase environmentally sensitive lands. Thus, the Committee recommends that the CRC recommend and encourage the BCC to utilize said funds, or a portion thereof, annually to acquire environmentally sensitive lands.

Argument Against Recommendation

1. Without a Charter Mandate, There is No Guarantee Environmentally Sensitive Lands Will Be Acquired.

A recommendation or encouragement from the CRC will be non-binding on the BCC. Accordingly, there is no guarantee that the County will spend \$7,500,000.00, or some portion thereof, annually to acquire environmentally sensitive lands.

Committee Recommendation

Chair Evans made a motion, which was seconded by Member Stoccardo, to: (1) recommend no proposed charter amendment be placed on the ballot; and (2) the full CRC issue a report advising and recommending that the BCC utilize current mechanisms and funding structures to acquire environmentally sensitive lands and to reestablish the County's ad-hoc committee for Green PLACE to receive public input on identifying environmentally sensitive lands and acquisition strategies. The motion carried 4 to 0.

Accordingly, having carefully considered the proposals, memorandums and information received from invited guests, as well as public input, and otherwise being fully advised in the premises, **the Committee recommends that no amendments to the Orange County Charter be made with respect to Permanent Funding for Green PLACE and that the CRC's final report recommends the BCC utilize current mechanisms and funding structures to acquire environmentally sensitive lands and reestablish the County's ad-hoc committee for Green PLACE.**



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Workgroup Summary Report

CRC By-Laws Workgroup

April 27, 2020
Communications Media Technology
4:15 p.m.

Workgroup Members:

Camille Evans, Chair
Nikki Mims
Samuel Vilchez Santiago
Soraya Smith
Eugene Stoccardo
Clifford Shepard, CRC General Counsel
Katie Smith, Assisting CRC as Staff
Jessica Vaupel, Assisting CRC as Staff

Other Present:

Kate Latorre, Assistant County Attorney

The CRC By-Laws Workgroup met to discuss recommendations for CRC by-laws.

Public Comment

The following person addressed the workgroup: Carol Foglesong.

CRC Chair Comments

Chair Evans stated the purpose of the workgroup was to review operating guidelines adopted by the 2020 CRC and to discuss procedural recommendations for future CRCs. Chair Evans outlined three potential workgroup meetings.

Chair Evans asked Assistant County Attorney Kate Latorre what the County's position was regarding the 2020 CRC's authority to establish procedures for future CRCs. Assistant County Attorney Latorre advised that the County has no issues with by-laws, however the 2020 CRC is not authorized under the Resolution of the Board of County Commissioners (BCC) creating the CRC, or the Orange County Charter, to create by-laws limiting the conduct of the 2024 CRC. Any document adopted by the 2020 CRC is not binding for the next CRC.

Members Open Discussion

Workgroup members offered recommendations for procedures they felt would be valuable to evaluate based upon their experience during the 2020 CRC cycle. The following were offered as possible topics. Several of the topics were discussed by more than one member.

- Committee Member and Chair Selections
- Adoption of Parliamentary Procedures
- Code of Ethics
- Meeting Attendance
- Recommendations to the BCC
- Work Product Format Guidelines
- General Counsel Procurement Committee
- Outline Chair / Vice Chair Duties Prior to Elections
- Agenda Publication and Rebuttal Submittal Deadlines
- Work Product Presentations to Full CRC
- Public Comment Opportunities

General Counsel Shepard provided remarks regarding the evaluation process and subcommittee work product guidelines adopted by the 2020 CRC. He advised that in the absence of by-laws, each CRC hereafter could do something similar. According to the work product guidelines, General Counsel Shepard advised there was no time for the workgroup to recommend a change to the Orange County Charter and offered what he thought were two options: the 2020 CRC could include procedural recommendations in its Final Report or draft a set of procedures as a recommendation to the BCC to impose on future CRCs.

Member discussion continued.

Chair Evans offered another suggestion in that the CRC could recommend to the BCC that a group of prior CRC members be convened, prior to the creation of the 2024 CRC, to create procedures to include in the BCC resolution. Member Stoccardo agreed.

Future Action Plan

Chair Evans advised the next workgroup meeting is scheduled for Monday, May 4, 2020 at 4:15 p.m. via WebEx and recommended that all CRC members provide their input no later than close of business Thursday, April 30, 2020 at 5:00 p.m. Chair Evans asked CRC staff to manage the responses. Member Smith urged that CRC members be specific with their procedural citations when referencing a document.

General Counsel Shepard offered to take the recommendations provided by CRC members and draft a working document for the workgroup prior to the next workgroup meeting on Monday, May 4, 2020. The workgroup members agreed.

Supporting materials, including the meeting notice, agenda, and summary report, may be found by visiting <https://www.occompt.com/clerk-of-the-bcc/charter-2020/meetings/>.