



2024 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Governmental Structure Committee

Charter Office of County Attorney Final Report and Recommendation to the Charter Review Commission

April 10, 2024

Committee Members:

Angel de la Portilla, Chair
Mark Arias
Tom Callan
Chuck O'Neal
Cornita Riley
Eugene Stoccardo
Beverly Winesburgh
Dotti Wynn

Summary of Recommendation

At its July 17, 2023 meeting, the 2024 Orange County Charter Review Commission ("CRC") assigned to the Governmental Structure Committee (the "Committee") a study of the County Attorney as it relates to the role of serving both the executive and legislative branches of the County government.

Over the course of at least 10 of its public meetings, the Committee heard public input and studied, reviewed, and discussed the role of the County Attorney at length, amongst its other assigned subject matters.

The Committee began with a review of Florida's 20 county charters, noting that the Orange County Charter is the only one that does not establish a charter office of County Attorney.

The Committee reviewed the history of the County Attorney in the Orange County Charter, beginning with the original 1986 County Charter, in which the Office of County Attorney was previously established as a charter officer pursuant to former Section 403.

The Committee continued its review with the 1988 charter amendment that established the contours of our current form of government (separately elected county chairman [later county mayor] with executive authority and a member of the County Commission, and six single-member commission districts).

However, this same 1988 charter amendment also deleted Section 403 of the 1986 Charter, removing the County Attorney as a charter officer and replacing it with a division

of “legal services” under the direction and supervision of the County Mayor pursuant to Sections 401 and 402. Many committee members expressed concern that the removal of the County Attorney as a charter officer was not explicitly mentioned in the ballot summary presented to the voters for the 1988 charter amendment.

The Committee heard from current County Commissioners voicing concerns about access to legal services from the County Attorney’s office. The Committee also discussed the role of the County Attorney with a number of past and present officials, including:

- Tom Wilkes, former Orange County Attorney, Chairman of the 1986 Orange County Citizens Charter Government Study Committee, and Member of the 1988 CRC
- Former County Mayor Linda Chapin
- Former County Mayor Teresa Jacobs
- County Mayor Jerry Demings
- County Attorney Jeffrey Newton

In the course of these discussions, the Committee also learned more about longstanding policies that have been in place in the County Attorney’s office to help ensure the availability of access to legal services for County Commissioners.

As a result of its inquiries, the Committee explored the option of reviving former Section 403 of the 1986 Charter establishing a charter office of County Attorney, with potential revisions to account for modifications to the County’s form of government since that time.

The Committee discussed former Section 403 with County Attorney Newton. In the course of that discussion, Mr. Newton confirmed that the County Attorney’s client is the County government, and that, with the addition of references to the County Mayor and department heads, the following quote from former Section 403 is generally an accurate statement of the Orange County Attorney’s role:

“[t]he County Attorney and all assistant county attorneys shall represent the County government, the Commission, Administrator and the division heads and county officers, all divisions and agencies of County government and all Adjustment, Regulatory and Advisory Boards and Commissions in all legal matters affecting the County government”

The Committee also discussed the appropriate roles of the County Mayor and County Commission in the appointment and removal of the County Attorney. Former Section 403, in place prior to the shift to the County Mayor/County Commission form of government, vested appointment and removal power solely in the County Commission. After review, the Committee concluded that the Mayor and County Commission should each have an important role to play in the appointment and removal of the County Attorney.

Accordingly, after consideration of the information presented, the Committee voted 7-0 to recommend to the full CRC an amendment to the Orange County Charter establishing a charter office of County Attorney by reimplementing former Section 403 of the original 1986 County Charter, with specified revisions, as shown at Exhibit “A”.

Specifically, the 1986 charter language has been revised to provide that the County Attorney “shall be appointed by the county mayor and confirmed by a vote of a majority of the full board” and that the County Attorney “may be removed by the county mayor, or by a vote of a majority of the full board.” This removal language is a meaningful change from the status quo, as the County Attorney and other county department heads are presently only subject to County Commission confirmation (or withholding of confirmation) on an annual basis.

The language has also been revised to conform to the drafting conventions of the current Charter (for example, most titles in lowercase, and referring to the Board of County Commissioners as “the board” rather than “the Commission”) and to accommodate the current organizational structure of the County (with the inclusion of the County Mayor, and reference to County departments). Finally, the language has been revised to provide that the compensation of the County Attorney shall be set by the board “after recommendation by the county mayor”, consistent with an analogous charter provision concerning the County Administrator.

Exhibit “A”

Ballot Proposal: The ballot title and ballot summary for this question are as follows:

**ORANGE COUNTY CHARTER
AMENDMENT ESTABLISHING CHARTER
OFFICE OF COUNTY ATTORNEY**

Amending the Orange County Charter to establish an office of the County Attorney, who shall be the County’s chief legal counsel, appointed by the County Mayor and confirmed by a majority of the full County Commission, and removed by either the County Mayor or a majority of the full County Commission.

___ Yes
___ No

Text Revisions: Upon approval of this question at referendum, the following portions of the Orange County Charter are amended to read as follows:

Sec. 402. Initial divisions and administrative regulations.

A. [Initial divisions.] The following initial divisions are hereby established:

1. Community rehabilitative services.
2. Fire and rescue services.
3. Public utilities.
4. Administrative support.
5. Health and human services.
6. Public works and development.
7. Civic facilities.
8. ~~Legal services.~~

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Sec. 403. Office of county attorney.

There shall be an office of the county attorney. The county attorney shall be the chief legal counsel to the county. The county attorney shall be appointed by the county mayor and confirmed by a vote of a majority of the full board. The county attorney may be removed by the county mayor, or by a vote of a majority of the full board. The county attorney shall employ such assistant county attorneys and special assistant county attorneys, on either a full-time or part-time basis, as may be deemed necessary, subject to budget approval. The county attorney and all assistant attorneys shall represent the county government, the board, county mayor, county administrator, and the department and division heads and county officers,

all divisions and agencies of county government and all adjustment, regulatory and advisory boards and commissions in all legal matters affecting the county government; and, upon request, they shall represent all constitutional officers serving Orange County. The county attorney and all assistant attorneys shall be licensed to practice law in the State of Florida. The compensation of the county attorney shall be set by the board after recommendation by the county mayor.