



# Alachua County Charter Review Commission

March 19, 2010

## Commission Members

Robert Ackerman  
Rob Brinkman  
DJ Ferguson  
Mitch Glaeser, Vice Chair  
Armando R. Grundy-Gomes  
J. K. Irby, Chair  
Joseph W. Little  
AuBroncee S. Martin  
John Martin  
Bill Richards  
Jim Stringfellow  
Rod Tuttle  
Lura W. Williams Martin  
Ashley Wood  
Guy York

County Staff:  
Richelle Sucara  
Deputy County Manager

Alachua County  
Charter Review  
Commission  
Attn: Richelle Sucara  
P.O. Box 2877  
Gainesville, FL 32602

Telephone:  
352-374-5210  
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352-338-7363

To: Members of the Charter Review Commission

From: J. K. Irby, Chair

Re: **Meeting Reminder**

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The CRC will meet at 5:30 p.m., Wednesday, March 24, 2010 in the County Commission meeting room, Room 209 at the County Administration Building. Attached are the agenda and backup materials.

At the meeting on the 24th, the commission's goal should be to complete consideration and prioritization of any proposal(s) a member may want to move forward and take additional "straw votes" as required. This will complete "round one".

Round two or "Second Reading" will take place at our April 28, 2010, meeting. At that time the commission will review and may modify the proposed charter language and ballot language prepared by the attorney. Once the proposals are in final form, we'll vote to see if the each proposal has eight of our votes respectively. Those proposals receiving eight votes will then move forward to the public hearing phase.



# Alachua County Charter Review Commission

## Agenda

Meeting: 5:30 p.m. Grace Knight Room, County Adm. Building

March 24, 2010

### Commission Members

Robert Ackerman

Robert Brinkman

DJ Ferguson

Mitch Glaeser, Vice Chair

Armando R. Grundy-  
Gomes

J. K. Irby, Chair

Joseph W. Little

AuBroncee S. Martin

John Martin

Bill Richards

Jim Stringfellow

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1. Call to order
  2. Approval of the minutes of the February 17, 2010, CRC meeting.
  3. General comments by members.
  4. Citizen comments (Citizens limited to 5 minutes each)
  5. Future meeting dates
  6. Counsel's update on ballot language for previously considered proposals.
  7. Consideration of proposals: "Straw Votes" to prioritize proposals.
- Action: To refer a proposal(s) to counsel for amendment drafting and ballot language for specific proposals.
8. Other Business
  9. Adjourn

Next Meeting: April 28, 2010



# Alachua County Charter Review Commission

## DRAFT

*Meeting Minutes – Monday, February 17, 2010*

### Commission Members

Robert Ackerman

Robert Brinkman

DJ Ferguson

Mitch Glaeser, Vice Chair

Armando R. Grundy-  
Gomes

J. K. Irby, Chair

Joseph W. Little

AuBroncee S. Martin

John Martin

Bill Richards

Jim Stringfellow

Rod Tuttle

Lura W. Williams Martin

Ashley Wood

Guy York

County Staff:  
Richelle Sucara  
Deputy County Manager  
Mary Lowry  
Support Staff  
Greg Feldman  
Intern

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CRC Members Present: Robert Ackerman, Robert Brinkman, DJ Ferguson, Mitch Glaeser, Armando Grundy-Gomes, J.K. Irby, Joseph Little, Aubroncee Martin, John Martin, Bill Richards, James Stringfellow, Rod Tuttle, Lura Williams Martin, Guy York

CRC Members Absent: Ashley Wood

**The meeting was called to order at 5:30 p.m.**

The chair entertained comments from the members and introduced city officials in the audience.

### 1. Adoption of the Agenda

The agenda was discussed and adopted as submitted.

### 2. Approval of Minutes of January 20, 2010

Joe Little moved that the January 20, 2010 minutes be accepted as presented. The motion was agreed to.

### 3. Update on list of charter amendment proposals received.

The Chair reported that the web now lists groups of 24 proposals. The Chair also recognized the county support staff for maintaining the web site and for their work on behalf of the commission.

### 4. Legal Counsel: Discussion of charter issues regarding cities, consolidation, merger, transfer or limitation of service, function, power or authority of a city.

Attorney Sarah Bleakley reviewed her letter of February 16, 2010, to the commission with regard to proposals regarding cities. A general discussion followed.

**5. Comments by official representatives of cities within Alachua County regarding the County Charter and proposals by municipalities.**

The Chair recognized officials from the League of Cities and cities within Alachua County. Following comments and discussion, the Chair asked that the cities have their attorneys prepare comments and send them to the commission for consideration.

**6. Consideration of proposals: “Straw Votes” to prioritize proposals.**

1. **Rob Brinkman moved** that the commission refer to the attorney a proposal to amend the charter by adding to *Sec. 2.2 (H)(3) Initiative* as follows:

“The county commission shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance and in addition, may not repeal or amend such ordinance except by unanimous vote for a period of five (5) years after the effective date of such ordinance.”

**After discussion, the motion was agreed to. 14 Yes – 0 No**

2. **Joe Little moved** that the commission refer to the attorney a proposal to amend the Charter by amending to *Sec. 2.2 (H)(1) Initiative* as follows:

“The electors of Alachua County shall have the right to initiate county ordinances in order to establish new ordinances and to amend or repeal existing ordinances upon petition by a number of electors qualified to vote equal to ~~seven (7)~~ five (5) percent of their total number in the county as a whole in the last preceding general election.”

**After discussion, the motion was agreed to. 13 Yes – 1 No**

3. **Armando Grundy-Gomes** moved that the commission refer to the attorney a proposal to amend the Charter by addition of the following:

“The county shall not duplicate functions performed by another governmental agency.”

**There being no second, the motion was not considered.**

4. **Rod Tuttle moved** that the commission refer to the attorney a proposal to amend the Charter by adding to *Section 2.2 (A) The County Commission* as follows:

“Elections for commissioners shall be nonpartisan and shall be conducted pursuant to law in the same manner as other nonpartisan elections.”

**After discussion, the motion was agreed to. 11 Yes – 3 No**

5. **DJ Ferguson moved** that the commission refer to the attorney a proposal to amend the Charter by adding to *Section 2.2 (A) The County Commission* as follows:

“No person may appear on the ballot for re-election to the office of county commissioner if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.”

**John Martin moved** that the motion be amended as follows:

“No person may appear on the ballot for re-election to the office of county commissioner if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for ~~X~~ consecutive years.”

After discussion, the amendment was agreed to.

**After discussion, the motion was not agreed to. 6 Yes – 7 No**

**(Mr. York out of the room)**

6. **Lura Williams Martin moved** that the commission refer to the attorney a proposal to amend the Charter by adding to *Section 2.2 (A) The county commission* as follows:

~~“The governing body of the county shall be a board of county commissioners composed of five (5) members serving staggered terms of four (4) years. There shall be one (1) commission member for each of the five (5) county commission districts established pursuant to general law and they shall be elected on a~~

countywide basis by the electors of the county, numbered 1 through 5 and they shall be nominated and elected on a single-member basis by only the electors of each district respectively. Only electors residing in a district may vote for candidates seeking to be elected to represent the district in which they reside....”

**Mitch Glaeser** moved to amend the motion by adding the following: “*Section 2.2 (B) Redistricting.*

“County commission district boundaries shall be changed only after notice and a public hearing as provided by general law. Commission districts shall be drawn so that three (3) and no more than (3) of the five (5) districts shall extend to the county line and two (2) districts shall be clustered in the center of the county.”

**After discussion, the amendment was agreed to. 13 Yes – 1 No**

**After discussion, the motion as amended was agreed to.**

**11 Yes – 3 No**

7. **Robert Ackerman** moved that the commission refer to the attorney a proposal to amend the Charter by as follows (based on Mr. Little’s letter of January 29, 2010) with each subsequent amendment listed conditioned on the approval of the amendment abolishing the board of county commissioners and designating a board of charter commissioners as the governing body of the county:

The Board of County Commissioners and office of county commissioner is hereby abolished as of \_\_\_\_\_.

A. The charter commission. The governing body of the county shall be a board of ~~county~~ charter commissioners composed of ~~five (5)~~ seven (7) members of which five (5) shall be elected from single member districts and two (2) shall be elected from the county at large serving staggered terms of four (4) years. There shall be one (1) commissioner for each of the ~~five (5) county~~ seven (7) charter commission districts. ~~established pursuant to general law.~~ There shall be one commission member elected from each of two (2) at-large districts encompassing the entire county numbered commission districts 1 and 2 and they shall be elected on a countywide basis by the electors of the county. The

person elected in district 1 shall be the permanent presiding officer of the board of charter commissioners and the ceremonial head of the county, and shall have the right to vote on all matters. In addition, one (1) charter commission members shall be elected from each of five (5) single member districts numbered 3 through 7 and they shall be elected on a single-member basis by only the electors residing in the district. Each candidate for the office of county charter commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for that office, and during the term of office each commissioner shall reside in the district from which such commissioner ran for office, provided that any commissioner who is removed from a district by redistricting may continue to serve during the balance of the term of office. Elections for all commissioners shall be nonpartisan and shall be conducted as other nonpartisan elections for county officers pursuant to law. No person may appear on the ballot for re-election to the office of charter commissioner if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years; except, as to candidates for County Presiding Officer. No person may appear on the ballot for reelection who has served in the office of County Presiding Officer if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years."

(B) Redistricting. ~~County~~ charter commission district boundaries shall be changed only after notice and a public hearing as provided by general law. Commission districts shall be drawn so that three (3) and only (3) of the five (5) single-member districts shall extend to the county line and two (2) single-member districts shall be clustered in the center of the county, and all shall be drawn under guidelines that protect voting rights guaranteed by the constitutions of Florida and the United States.

(C) Salaries and other compensation. Salaries and other compensation of the ~~county~~ charter commissioners shall be set by county ordinance and shall be TBA percent of the salary ~~the same as those~~ set by general law for the county commissioners of noncharter counties; except that the salary of the County Presiding officer shall be set at TBA percent of the salary set by general law for county commissioners of noncharter counties.

**After discussion, the motion was agreed to. 13 Yes- 1 no**

8. **Robert Brinkman** moved that the commission refer to the attorney a proposal to amend the Charter by adding:

“ No person shall operate an airboat in Alachua County between 7 p.m. and 7 a.m. with exceptions for government airboats operated in the line of duty by authorized personnel, and private airboats authorized by law enforcement personnel during specific emergency incidents...”

**There being no second, the motion was not considered.**

9. **Joe Little** moved that the meeting be adjourned.

**The motion to adjourn was agreed to.**

The Chair adjourned the meeting.



# Alachua County Charter Review Commission

## Calendar of Events

### Commission Members

Robert Ackerman	1/25/10	City of Newberry and City of Archer Presentations
Rob Brinkman	1/28/10	City of High Springs Presentation
DJ Ferguson	2/02/10	City of Hawthorne Presentation
Mitch Glaeser, Vice Chair	2/04/10	City of Gainesville Presentation
Armando R. Grundy-Gomes	2/08/10	Town of Micanopy Presentation
J. K. Irby, Chair	2/17/10	CRC regular meeting
Joseph W. Little	2/22/10	City of Alachua Presentation
AuBroncee S. Martin	3/08/10	City of LaCrosse Presentation
John Martin	3/09/10	City of Waldo Presentation
Bill Richards	3/24/10	CRC regular meeting
Jim Stringfellow	4/28/10	CRC regular meeting
Rod Tuttle	5/12/10	First Public Hearing on proposals receiving 8 votes
Lura W. Williams Martin	5/26/10	Second Public Hearing on proposals receiving 8 votes
Ashley Wood	6/09/10	Third and Final Public Hearing and vote on proposals
Guy York	6/22/10	Deliver final report to BoCC

(Proposals receiving 8 votes at this meeting will go to ballot)

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## Additional Information

Single Member Districts  
Memorandum from Sarah Bleakly  
Florida Constitution  
Florida Statutes

50 Year History of County Commission

Memorandum from Greg Feldman regarding nonpartisan elections

Memorandum from John Hubbard, Esq., regarding city proposal

Updated list of proposals received and backup material

TALLAHASSEE  
Suite 200  
1500 Mahan Drive  
Tallahassee, Florida 32308  
(850) 224-4070 Tel  
(850) 224-4073 Fax



FORT LAUDERDALE  
208 S.E. Sixth Street  
Fort Lauderdale, Florida 33301  
(954) 525-8000 Tel  
(954) 525-8331 Fax

TAMPA  
Suite 1060  
2502 Rocky Point Drive  
Tampa, Florida 33607  
(813) 281-2222 Tel  
(813) 281-0129 Fax

March 19, 2010

**Via Electronic Mail**

Alachua County Charter  
Review Commission  
County Administration Building  
12 S.E. 1st Street  
Gainesville, Florida 32602

Re: Single Member Districts for County Commissioners

Ladies and Gentlemen:

The current charter provides for elections of the county commissioners on a countywide basis. Sec. 2.2(A), Alachua County Charter. Requiring county commissioners to be elected from single member districts is the subject of several suggestions embodied collectively in Proposal 18. The concept was tentatively approved by the Charter Review Commission at its February meeting. The analysis of whether a charter may require single member districts is similar to the examination of non-partisan elections for county commissioners, the subject of our January 15<sup>th</sup> correspondence.

Article VIII, section 1(e), provides:

(e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

Art. VIII, §1(e), Fla. Const. (Emphasis supplied.)

To summarize our previous analysis of a proposal requiring non-partisan elections, we concluded based on the specificity of Article VIII, section 1(e), the Legislature is solely responsible for determining the method of electing county

commissioners. Because the Legislature has not authorized non-partisan elections of commissioners, a charter may not require them.

On the issue of single member districts, the Legislature has specifically authorized county commissioners to be elected from either single member districts or multi-member districts.

124.011 Alternate procedure for the election of county commissioners to provide for single-member representation.–

(1) County commissioners shall be nominated and elected to office in accordance with the provisions of s. 124.01, or as otherwise provided by law, unless a proposition calling for single-member representation within the county commission districts is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in this section. . . .

(3) A proposition calling for single-member representation within the county commission districts of the county shall be submitted to the electors of the county at any primary, general, or otherwise-called special election, in either manner following:

(a) The board of county commissioners may adopt a formal resolution directing an election to be held to place the proposition on the ballot.

(b) The electors of the county may petition to have the proposition placed on the ballot by presenting to the board of county commissioners petitions signed by not less than 10 percent of the duly qualified electors of the county. The number of signatures required shall be determined by the supervisor of elections according to the number of registered electors in the county as of the date the petitioning electors register as a political committee. . . .

§124.011, Fla. Stat. (Emphasis supplied.) Compare, section 1000.362, Florida Statutes, providing a similar process for changing county school district members from multi-member to single member districts.

The statute mandates that county commissioners shall be elected in multi-member districts unless another method is provided by law or until a county adopts single member districts in the manner authorized in the statute. The statute provides two methods for changing from multi-member to single member districts with referendum approval. A board of county commissioners may propose the change by resolution. Or the switch may be proposed by citizen's initiative. Note that the statute does not expressly allow such a change to be made by charter amendment. The statute's language "in the manner provided in this section" signifies that the statutory methods for proposing single-member districts are the only two methods permitted. A charter amendment is not among the two statutorily authorized methods.

A single reported appellate court decision considered a charter amendment proposing single member districts See, Harris v. Moore, 752 So. 2d 1241 (Fla. 4<sup>th</sup> DCA 2000). The charter amendment at issue was proposed by special act. The Court did not comment on legislative authority to propose single member district charter amendments. Thus, the opinion is not instructive on whether a charter can require single member districts where the Legislature has not authorized them.

There is some difference of opinion among local government lawyers about single member districts proposed by charter amendment. We are mindful of the opinion given by Mr. Nickerson, our predecessor, that the charter can provide for single member districts. He relied upon a 1977 opinion of the Attorney General which approved single member districts for county commissioners in Escambia County.<sup>1</sup> But, the Attorney General's opinion in Escambia relied upon an unpublished circuit court order that approved a Volusia County single member district provision authorized by special act. The Attorney General did not distinguish between a special act charter amendment and those initiated locally. It is our view that a special act ratified by the voters can require single member districts. But without some sort of authorization "by law" a charter cannot authorize single member districts. Regarding the requirement in article VIII, section 4 that "One commissioner residing in each district shall be elected as provided by law," the Supreme Court has stated: "this is a substantive amendment delegating to the legislature the task of establishing procedures for election of county commissioners . . ." State v. Grassi, 532 So. 2d 1055 (Fla. 1988).

No law authorizes the charter of Alachua County to propose single member districts. However, the statute as emphasized above authorizes a board of county commissioners to adopt a formal resolution calling for a referendum on single member districts. Sec. 124.011(3)(a), Fla. Stat. Pursuant to the Alachua Charter, the Charter

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<sup>1</sup> Op. Atty. Gen 1977-119.

Alachua County Charter  
Review Commission  
March 19, 2010  
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Review Commission proposals are required to be placed on the ballot by the Board of County Commissioners by resolution. If the Charter Review Commission approves a single member district proposal, the Board of County Commissioners must put it on the ballot by adopting a resolution. Since the statute allows single member district proposal to be placed on the ballot by a board of county commissioner resolution, it would appear a resolution adopted by the Board of County Commissioners to place the Charter Review Commission single member district proposal on the ballot meets the requirements of the statute. Thus, the Charter Review Commission may lawfully propose a charter amendment calling for elections of county commissioners from single member districts instead of county wide elections currently embodied in the Charter.

Sincerely yours,

*Sarah M. Bleakley*

Sarah M. Bleakley

SMB:sib

# Single Member Districts

## The Constitution of the State of Florida

### Article VIII Local Government

- e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

#### Florida Statutes

##### **124.011 Alternate procedure for the election of county commissioners to provide for single-member representation.--**

(1) County commissioners shall be nominated and elected to office in accordance with the provisions of s. 124.01, or as otherwise provided by law, unless a proposition calling for single-member representation within the county commission districts is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in this section. Such proposition shall provide that:

(a) Five county commissioners shall reside one in each of five county commission districts, the districts together covering the entire county and as nearly equal in population as practicable; and each commissioner shall be nominated and elected only by the qualified electors who reside in the same county commission district as the commissioner; or

(b) The board of county commissioners shall be increased from five commissioners to seven commissioners, with five of the seven commissioners residing one in each of five county commission districts, the districts together covering the entire county and as nearly equal in population as practicable, and each commissioner being nominated and elected only by the qualified electors who reside in the same county commission district as the commissioner, and with two of the seven commissioners being nominated and elected at large.

(2) All commissioners shall be elected for 4-year terms which shall be staggered so that, alternately, one more or one less than half of the commissioners elected from residence areas and, if applicable, one of the commissioners elected at large from the entire county are elected every 2 years, except that any commissioner may be elected to an initial term of less than 4 years if necessary to achieve or maintain such system of staggered terms.

(3) A proposition calling for single-member representation within the county commission districts of the county shall be submitted to the electors of the county at any primary, general, or otherwise-called special election, in either manner following:

(a) The board of county commissioners may adopt a formal resolution directing an election to be held to place the proposition on the ballot.

(b) The electors of the county may petition to have the proposition placed on the ballot by presenting to the board of county commissioners petitions signed by not less than 10 percent of the duly qualified electors of the county. The number of signatures required shall be determined by the supervisor of elections according to the number of registered electors in the county as of the date the petitioning electors register as a political committee pursuant to subsection (4).

(4) The electors petitioning to have the proposition placed on the ballot shall register as a political committee pursuant to s. 106.03, and a specific person shall be designated therein as chair of the committee to act for the committee.

(5) Each petition form circulated for single-member county commissioner representation within the county shall include space for the printed name, signature, and address of the elector and shall include the wording set forth in paragraph (a) or paragraph (b):

(a) "As a registered elector of \_\_\_\_\_ County, Florida, I am petitioning for a referendum election to determine whether the five county commissioners of said county shall be elected from single-member districts by electors residing in each of those districts only."

(b) "As a registered elector of \_\_\_\_\_ County, Florida, I am petitioning for a referendum election to determine whether the board of county commissioners shall be increased from five to seven members, with five of the county commissioners of said county being elected from single-member districts by electors residing in each of those districts only, and the remaining two being elected at large."

(6) Upon the filing of the petitions with the board of county commissioners by the chair of the committee, the board of county commissioners shall submit the petitions to the supervisor of elections for verification of the signatures. Within a period of not more than 60 days, the supervisor of elections shall determine whether the petitions contain the required number of valid signatures. The supervisor of elections shall be paid by the committee seeking verification the sum of 10 cents for each name checked.

(7) If it is determined that the petitions have the required signatures, the supervisor of elections shall certify the petitions to the board of county commissioners, which shall adopt a resolution requesting that an election date be set to conform to the earliest primary, general, or otherwise-called special election that occurs not less than 30 days after certification of the petitions. If it is determined that the petitions do not contain the required signatures, the supervisor of elections shall so notify the board of county commissioners, which shall file the petitions without taking further action; and the matter shall be at an end. No additional names may be added to the petitions, and the petitions may not be used in any other proceeding.

(8) No special election may be called for the sole purpose of presenting the proposition to the vote of the electors.

(9)(a) In a county in which the board of county commissioners is composed of five members, each to be elected from single-member districts, the wording of the proposition on the ballot shall be as follows:

Shall the five members of the board of county commissioners of \_\_\_\_\_ County, Florida, be elected to office from single-member districts by electors residing in each of those districts only?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

(b) In a county in which the board of county commissioners is to be increased from five to seven members, with two of the seven members to be elected at large, the wording on the ballot shall be as follows:

Shall the board of county commissioners of \_\_\_\_\_ County, Florida, be increased from five to seven members, with five of the seven members to be elected to office from single-member districts by electors residing in each of those districts only, and with the two remaining members being elected by all electors within the county at large?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

(10) Any county adopting one of the propositions set forth in this section may thereafter return to the procedures otherwise provided by law by following the same procedure outlined in subsection (3).

(11) No county commissioner elected prior to or at the election which approves any revision as permitted in this section shall be affected in his or her term of office. The resolution adopted by the board of county commissioners under paragraph (3)(a) or subsection (7) which presents the proposed revision to the electorate for approval shall specify an orderly method and procedure for implementing the revision contemplated in the resolution.

Board of County Commissioners

Dist 1

Dist 2

Dist 3

Dist 4

Dist 5

Byerly 08-12
Byerly 04-08
Byerly 00-04
Clemons 96-00
Eppes 92-96
Dekel 88-92
Notestein 84-88
Schroepfer 80-84
Downs 76-80
Weshow 72-76
Cellon 68-72
Brandon 64-68
Brandon 60-64

Pinkoson 06-10
Pinkoson 02-06
Newport 98-02
Summers 94-98
Wheat 90-94
Wheat 86-90
Walker 82-86
Durrance 78-82
Durrance 74-78
Durrance 70-74
Durrance 66-70
Durrance 7 terms

Delaney 08-12
Delaney 04-08
Wheat 00-04
Wheat 96-00
Barnes 92-96
Barnes 88-92
Turlington 84-88
Turlington 80-84
Turlington 76-80
Turlington 72-76
Turlington 68-72
Johnson 64-68
Johnson

Chestnut 06-10
Chestnut 02-06
Hutchinson 98-02
Brown 94-98
Brown 90-94
Brown 86-90
Brown 82-86
McGriff 78-80 Bleiweis 80 Lee 80-82
McGriff 74-78
Davis 70-74
Davis 66-70
Davis 4 terms

Long 08-12
Long 04-08
Long 00-04
Chestnut 96-00
Chestnut 92-96
Coward 88-92
Coward 84-88
Coward 80-84
Coward 76-80
Martin 72-74 Coward 74-76
Martin 68-72
Martin 64-68
Martin

**BoCC  
50 Years -  
By the numbers**

32 served

9 elected to more  
than 2 terms

2 times - same  
Commission  
for more than  
4 years.



# Alachua County Charter Review Commission

March 16, 2010

## Commission Members

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To: Members of the Charter Review Commission

From: Greg Feldman, Intern

Re: **Whether a proposal to elect the BoCC on a nonpartisan basis has ever been defeated in a public referendum in other charter counties?**

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I was instructed at the last meeting of the Charter Review Commission to contact the Florida Association of Counties to see what if any information they had concerning whether a proposal to elect the BoCC on a nonpartisan basis has even been defeated in a public referendum. They had no answer and said my best bet was to call the Supervisor of Election Offices of each county which I did. I heard back from most of the counties and so far found only one true instance of it being defeated in a public referendum which was in Leon County in 1976. However in 2008, there was a petition process that began in Charlotte County to put nonpartisan elections on the ballot. According to the Supervisor of Election, the petition never reached the ballot because not enough signatures were gathered. The only other instance of something else along those lines was in Palm Beach County in 1986 where the State Attorney intervened and ruled "that state law forbids amending the charter through referendum to accommodate non-partisan elections". You can read about it more here in this back issue of the Palm Beach Post.

<http://news.google.com/newspapers?id=RV4vAAAIBAJ&sjid=idsFAAAAIBAJ&pg=903%2C676954> Two counties did amend their original charters to become nonpartisan. Orange County in 1992 and Columbia County in 2006 which amended their charter to elect the County Attorney and School board Superintendant on a nonpartisan basis. If you have any questions regarding my research please do not hesitate to email me.

**Frazer  
Hubbard  
Brandt  
&  
Trask  
Yacavone**

L. L. P.  
Attorneys At Law

JOHN G. HUBBARD  
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March 15, 2010

The Honorable Louie Davis  
Mayor, City of Waldo  
President, Alachua County League of Cities  
P.O. Box 222  
Waldo, Florida 32694-0222

Dear Mayor Davis:

It has recently come to my attention that the Alachua County Charter Review Commission is giving consideration to certain modifications in the Alachua County Charter. Among the matters under consideration is whether or not Alachua Charter can require a dual vote referendum on future charter amendments regarding municipal regulatory powers.

Attorney Sarah M. Bleakley has advised the Commission in her February 16, 2010 memorandum (page 18) that it is her opinion that: "Therefore, a charter amendment need only be approved by voters on a countywide basis and not in any individual municipality. A charter amendment may not change a constitutional voting requirement for future charter amendments." In that same portion of Ms. Bleakley's opinion, she also states that: "The issue of limiting future charter amendments in this manner has not been directly addressed by any appellate court."

Her conclusion is based on two cases cited in the opinion. The most recent is Citizens For Term Limits & Accountability, Inc. v. Lyons, 995So.2d 1051 (Fla. 1<sup>st</sup> DCA 2008).

I have the highest regard for Ms. Blakely's legal capabilities and I am sure that this portion of her opinion was analyzed and drafted in a manner to give the most neutral and straight-forward advice that she could give to her client, the Alachua County Charter Review Commission. Nevertheless, I must conclude that the question remains subject to different analysis and that foreclosing any further discussion on this matter is premature.

I have represented Florida municipalities for over thirty-five (35) years at this point in my career and I readily admit I come to this question with a professional inclination to give cities the broadest possible alternatives and discretion to act in the self interest of their citizens to the greatest of possible degree. To conclude based upon one legal opinion without further

and careful analysis that the possibility of requiring a dual vote on future charter amendments that affect municipal regulatory powers needlessly limits the rights of the citizens of Alachua County is premature and, ultimately, denies the voters of Alachua County an important choice as to how they will be governed.

Ultimately, this type of question should and can be resolved by the judicial process. The question is not truly settled until that judicial process has been exhausted. The benefit of the judicial process is that more than one opinion will be considered by the court and that all the players with an interest in the outcome of this type of issue will be allowed by the court to provide a variety of arguments, case law and analysis of the issue.

There are important fundamental principals in this question that should not be lightly disregarded. Florida case law is replete with concepts and decisions that protect the right of the people to govern themselves without interference from the judiciary unless some important constitutional principal is being violated or some portion of the people so governed are being denied critical democratic rights, such as the right to vote on an issue. The charter form of government derives its power from the people. The non-charter form of government derives its power from the state. *Hollywood, Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4<sup>th</sup> DCA 1983).

If the dual vote on future charter amendments affecting municipal regulatory powers is of importance to the citizens of the cities within Alachua County and important to all residents of Alachua County, is there an extraordinarily important reason to dismiss this possible Charter amendment based solely on the legal advisor's opinion to the Alachua County Charter Review Commission?

I fully recognize the Lyons case as presumptively having some legal precedential value in the First District on the dual referendum question. However, I conclude from a careful reading of that case that it is certainly possible that a more careful analysis of the court holding that the Clay County Charter requiring a vote of sixty percent (60%) for future amendments "runs afoul" of Article VIII, Section 1(c) of the Florida Constitution. It is certainly very possible that the appellate court's consideration of this particular issue was overly conclusionary. There is no analysis in the case other than to refer to a definition provided in the Constitution for the term "vote of the electors". The court rejected the appellant's contention that the word "only" should be inserted into the constitutional language; it refused to do so and concluded, without further analysis that the sixty percent (60%) requirement was unconstitutional. Interestingly, the court states "the Florida Constitution specifies a simple majority vote as both necessary and sufficient to amend County Charters". (*emphasis supplied*) In fact, the Constitution does not use the word "simple" as a modifier of the term "majority vote". A review of common dictionary definitions leads only to the conclusion that the "majority" means some number in excess of one-half of the vote cast. The term "majority", in and of itself does not mean fifty percent (50%) plus one; it can also mean a greater number, such as sixty percent (60%). If the framers of the Constitution had meant a "simple majority", they could have specified this precise calculation. They did not

do so. Therefore, why should the judicial branch of government take away from the people of Florida their right to choose what type of "majority" they prefer to have? It is their determination through an elective process that will determine the level of preference which must be expressed by the voters to change their charter.

What are commonly referred to "super majorities" are common throughout municipal charters in the State of Florida; usually for the retention of City Managers and other Charter Officials or amendments to Comprehensive Plans. It is the will of the people, expressed through the ballot box and not by judicial review, that should determine what type of "majority" they prefer to have in their County Charter.

For the above reasons, it is my advice to you that only a very limited amount of precedential value should be assigned to the Lyons case in this context. It is also my advice to you that the Alachua League's proposal to require a dual vote on future charter amendments affecting municipal regulatory powers should be tested by the courts of Florida, if that is perceived to be a valid recommendation which achieves a proper balance acceptable to the voters in Alachua County as to the relationship between county and municipal powers within Alachua County.

Is there any reason why the democratic process should not prevail in this type of situation? Is there any reason why the opinion of the Commission's attorney should forever preclude consideration by voters of this question and, probably inevitably, a careful review and analysis within the judicial system? This is particularly the case when both Ms. Bleakley and I agree that "The issue of limiting future charter amendments in this manner has not been directly addressed by any appellate court." If this is the right thing to do --- do it. If the Supreme Court of Florida wants to take away the right of the people of Alachua County to govern themselves as they see fit, it may be that the Supreme Court will do just that. A decision to place this question before the voters of Alachua County may involve both hard work and expense, but is it not the duty of the Alachua County Charter Review Commission to give the people of Alachua County the right to make this decision themselves? There is no need for the Commission to voluntarily bind its hands or to limit the questions presented to the voters of Alachua County unless there is absolute judicial precedent from the highest court in Florida that unqualifiedly states that the people of Alachua County are not allowed to govern themselves in this matter.

I hope that these unsolicited thoughts are not unwelcome. In a close question, it is certainly possible that the Florida Supreme Court will give judicial deference to an electoral process allowing the people of Alachua County to govern themselves as they see fit. Unlike some of the other cases cited by Ms. Bleakley, no critical civil rights are being taken away from them such as was the situation in the City of St. Augustine case. I remain hopeful that the Florida Supreme Court would honor democratic principles over a debatable constitutional analysis.

Charter government is the people's government and, should the people adopt an amendment to their charter, the courts will presume its validity. The proposed amendment requiring a dual referendum for the transfer of regulatory functions governs the relationship between the county and the people of Alachua County. Article VIII, Section 4 of the Florida Constitution, on the other hand, governs the relationships between the county and the cities of Alachua County in the absence of an amendment to the Charter. It is an elementary concept of democratic government in the State of Florida that all governmental power is reserved to the people save those powers delegated to government. Florida's Supreme Court has stated the principle thusly:

[W]e do not undertake to evaluate the ultimate effect of the adoption of the proposed amendment upon the continued existence or efficiency of metropolitan government in Dade County. This is so because Home Rule government means exactly what the term suggests. If the people in the affected area desire Home Rule in its broadest and most completely unrestricted sense, it is theirs to adopt so long as they comply with the provisions of the organic law. On the other hand, and subject only to the same limitation, they can have limited Home Rule. Finally, by the same token if they desire no Home Rule at all, it is for them to decide. Consequently, it would be inappropriate for this court to undertake to discuss in any measure either the wisdom or the lack of wisdom reflected by the proposed amendment.

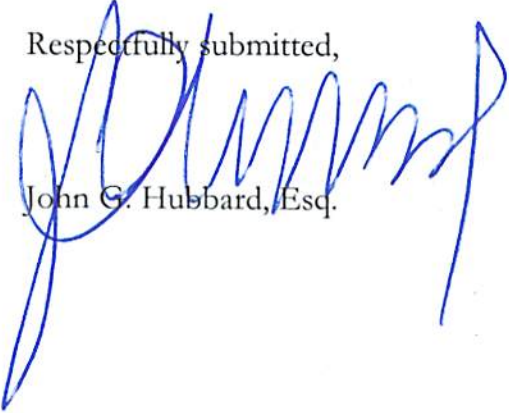
*Dade County v. Dade County League of Municipalities*, 104 So. 2d 512, 515 (Fla. 1958).

See Article I, Section 1 of the Florida Constitution which states: "All political power is inherit in the people"

I would encourage your organization to honor that concept.

Thank you for considering my thoughts.

Respectfully submitted,

  
John G. Hubbard, Esq.

Name	Proposal	Date Received	Current Status
<a href="#">CRC-09-01 (1).pdf</a>	Elect BoCC on nonpartisan basis	9/28/2009	Under Consideration
<a href="#">CRC-09-01 (2).pdf</a>	Same as CRC-09-01 (1)	12/28/2009	
<a href="#">CRC-09-01 (3).pdf</a>	Same as CRC-09-01 (1)	1/19/2010	
<a href="#">CRC-09-01 (4).pdf</a>	Same as CRC-09-01 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-01 (5).pdf</a>	Same as CRC-09-01 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-02.pdf</a>	Elect Supervisor of Elections on nonpartisan basis	10/1/2009	Under Consideration
<a href="#">CRC-09-03 (1).pdf</a>	County & City referendum required to impose requirement on municipality	10/9/2009	Under Consideration
<a href="#">CRC-09-03 (2).pdf</a>	Same as CRC-09-03 (1)	10/9/2009	
<a href="#">CRC-09-03 (3).pdf</a>	Same as CRC-09-03 (1)	10/9/2009	
<a href="#">CRC-09-03 (4).pdf</a>	Same as CRC-09-03 (1)	1/27/2010	Under Consideration
<a href="#">CRC-09-03 (5).pdf</a>	Same as CRC-09-03 (1)	1/29/2010	Under Consideration
<a href="#">CRC-09-04 (1).pdf</a>	Cap BoCC salary at average county income	10/21/2009	Under Consideration
<a href="#">CRC-09-04 (2).pdf</a>	Same as CRC-09-04 (1)	12/28/2009	
<a href="#">CRC-09-04 (3).pdf</a>	Same as CRC-09-04	1/15/2010	
<a href="#">CRC-09-04 (4).pdf</a>	Same as CRC-09-04 (1)	1/15/2010	
<a href="#">CRC-09-04 (5).pdf</a>	Same as CRC-09-04 (1)	1/15/2010	
<a href="#">CRC-09-04 (6).pdf</a>	Same as CRC-09-04 (1)	1/28/2010	Under Consideration
<a href="#">CRC-09-04 (7).pdf</a>	Same as CRC-09-04 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-05 (1).pdf</a>	Impose BOCC term limits. Two terms	10/21/2009	Under Consideration
<a href="#">CRC-09-05 (2).pdf</a>	Same as CRC-09-05 (1)	12/28/2009	
<a href="#">CRC-09-05 (3).pdf</a>	Same as CRC-09-05 (1)	1/19/2010	
<a href="#">CRC-09-05 (4).pdf</a>	Same as CRC-09-05 (1)	1/19/2010	
<a href="#">CRC-09-05 (5).pdf</a>	Same as CRC-09-05 (1)	1/28/2010	Under Consideration
<a href="#">CRC-09-06 (1).pdf</a>	Merge the City of Gainesville and Alachua County governments into one GOV'T	10/21/2009	Under Consideration
<a href="#">CRC-09-06 (2).pdf</a>	Same as CRC-09-06 (1)	10/21/2009	
<a href="#">CRC-09-06 (3).pdf</a>	Same as CRC-09-06 (1)	2/10/2010	Under Consideration
<a href="#">CRC-09-06 (4).pdf</a>	Same as CRC-09-06 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-06 (5).pdf</a>	Same as CRC-09-06 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-07.pdf</a>	BoCC to appoint Constitutional Officers	10/28/2009	Under Consideration
<a href="#">CRC-09-08.pdf</a>	Require all county Depts to reflect county demographics	10/28/2009	Under Consideration
<a href="#">CRC-09-09 (1).pdf</a>	Impose terms limits on county offices -- Two 4-year terms	10/28/2009	Under Consideration
<a href="#">CRC-09-09 (2).pdf</a>	Same as CRC-09-09	1/15/2010	
<a href="#">CRC-09-09 (3).pdf</a>	Same as CRC-09-09 (1)	1/15/2010	Under Consideration
<a href="#">CRC-09-09 (4).pdf</a>	Same as CRC-09-01 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-09 (5).pdf</a>	Same as CRC-09-09 (1)	3/16/2010	Under Consideration
<a href="#">CRC-09-10 (2).pdf</a>	Same as CRC-09-10 (1)	1/19/2010	

<a href="#">CRC-09-10.pdf</a>	All sales tax referenda to be held at general election only	11/5/2009	Under Consideration
<a href="#">CRC-09-11.pdf</a>	BoCC salary to be set by voters	11/5/2009	Under Consideration
<a href="#">CRC-09-12 (2).pdf</a>	Same as CRC-09-12 (1)	1/19/2010	
<a href="#">CRC-09-12.pdf</a>	Unification of fire services	11/5/2009	Under Consideration
<a href="#">CRC-09-13.pdf</a>	BoCC Salary to be set by BoCC	12/28/2009	Under Consideration
<a href="#">CRC-09-14 (2).pdf</a>	Same as CRC-09-14 (1)	1/19/2010	
<a href="#">CRC-09-14.pdf</a>	Budget shall provide line-by-line consistency year-by-year	12/28/2009	Under Consideration
<a href="#">CRC-09-15.pdf</a>	Require annual audit of county enterprise funds	12/28/2009	Under Consideration
<a href="#">CRC-09-16 (1).pdf</a>	BoCC single-member districts and require districts to balance representation of representative populations	12/28/2009	Under Consideration
<a href="#">CRC-09-16 (2).pdf</a>	Same as CRC-09-16 (1)	12/28/2009	
<a href="#">CRC-09-16 (3).pdf</a>	Same as CRC-09-16 (1)	1/14/2010	
<a href="#">CRC-09-16 (4).pdf</a>	Same as CRC-09-16	1/15/2010	
<a href="#">CRC-09-16 (5).pdf</a>	Same as CRC-09-16	1/15/2010	
<a href="#">CRC-09-16 (6).pdf</a>	Same as CRC-09-16 (1)	1/19/2010	
<a href="#">CRC-09-16 (7).pdf</a>	Same as CRC-09-16 (1)	1/19/2010	
<a href="#">CRC-09-16 (8).pdf</a>	Same as CRC-09-16 (1)	1/19/2010	
<a href="#">CRC-09-17.pdf</a>	Limit county budget increase to cost of living increase	12/28/2009	Under Consideration
<a href="#">CRC-09-18 (2).pdf</a>	Same as CRC-09-18 (1)	1/14/2010	
<a href="#">CRC-09-18 (3).pdf</a>	Same as CRC-09-18 (1)	1/14/2010	
<a href="#">CRC-09-18.pdf</a>	Change the County-wide Voting for Alachua County Commissioners to District-Only Voting	1/7/2010	Under Consideration
<a href="#">CRC-09-19.pdf</a>	BoCC may not amend or repeal ordinance adopted by initiative for five years.	1/13/2010	Under Consideration
<a href="#">CRC-09-20.pdf</a>	Regulate operation of airboats	1/13/2010	Under Consideration
<a href="#">CRC-09-21 (2).pdf</a>	Same as CRC-09-21	1/15/2010	
<a href="#">CRC-09-21 (3).pdf</a>	Same as CRC-09-21 (1)	1/19/2010	
<a href="#">CRC-09-21.pdf</a>	Prohibit duplication of county programs if like function is performed by another governmental entity.	1/15/2010	Under Consideration
<a href="#">CRC-09-22.pdf</a>	Create office of County Clerk & Comptroller	1/19/2010	Under Consideration
<a href="#">CRC-09-23.pdf</a>	Replace Board of County Commissioners with Charter Commissioners	1/29/2010	Under Consideration
<a href="#">CRC-09-24.pdf</a>	Elected School Superintendent	2/17/2010	Under Consideration

**Mary Lowry**

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**From:** J.K. "Buddy" Irby [jki@alachuaclerk.org]  
**Sent:** Wednesday, February 17, 2010 8:23 AM  
**To:** Mary Lowry  
**Subject:** FW: Elected School Superintendent

No. 24

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**From:** 4As of Alachua County, Inc. [mailto:4asalachuacounty@gmail.com]  
**Sent:** Tuesday, February 16, 2010 11:18 PM  
**To:** J.K. "Buddy" Irby  
**Subject:** Elected School Superintendent

Hello Mr. Irby,

The African American Accountability Alliance of Alachua County, Inc. (4As) at its Board meeting on February 15th, requested that we contact you as Chair of the Charter Review Committee to request that the Committee consider placing before the voters in November the issue of an Elected Superintendent for the Alachua County School District. Please advise when this item will come before the full Commission for discussion so that we can have the appropriate persons in attendance to speak to this important issue. Thanks in advance for your cooperation.

The African American Accountability Alliance of Alachua County, Inc

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:04 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Patricia Compton

**Email:** [mysydneymacaw@att.net](mailto:mysydneymacaw@att.net)

**Comment:** I would like BOCC elected on non partisan terms. Thank you, Ms. Compton.

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:05 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Dorothy Kassvan

**Email:** [mamarhino5@aol.com](mailto:mamarhino5@aol.com)

**Comment:** I would like Bocc elected on a non partisan basis. Thank you, Mrs. Kassvan.

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:06 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Dorothy Kassvan

**Email:** [mamarhino5@aol.com](mailto:mamarhino5@aol.com)

**Comment:** Definitely would like salary caps for BOCC. Thank you, Mrs. Kassvan

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:10 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Patricia Compton

**Email:** [mysydneymacaw@att.net](mailto:mysydneymacaw@att.net)

**Comment:** I would like to see county and city government merged as a county resident I think its unconstitutional to charge us more on certain things because, we live in the county. Thank you, Ms. Compton

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:12 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Dorothy Kassvan

**Email:** [mamarhino5@aol.com](mailto:mamarhino5@aol.com)

**Comment:** I am a county resident but, would like county and city merge and have one government not two.  
Thank you, Mrs. Kassvan

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:14 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Dorothy Kassvan

**Email:** [mamarhino5@aol.com](mailto:mamarhino5@aol.com)

**Comment:** I think it's a good idea to set term limits for all county offices. Thank you, Mrs. Kassvan

**Mary Lowry**

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**From:** noreply@alachuacounty.us  
**Sent:** Tuesday, March 16, 2010 8:13 PM  
**To:** Charter Review Commission  
**Subject:** Charter Review Commission Proposal Submission

**CRC Proposal Submission**

**Name:** Patricia Compton

**Email:** [mysydneymacaw@att.net](mailto:mysydneymacaw@att.net)

**Comment:** I would like to see term limits for all county offices. Thank you, Ms. Compton