



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 000428

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: September 25, 2000

FROM: City Attorney and Clerk of the Commission

SUBJECT: A Resolution of the City Commission of the City of Gainesville endorsing proposed County Charter amendments relating to Air and Water Pollution and Joint Planning; urging the electorate to vote in favor of these amendments on the November 7, 2000 General Election Ballot; and providing an immediate effective date.

Recommendation: The City Commission the proposed Resolution.

The City Commission, at its meeting of September 11, 2000, authorized the City Attorney and Clerk of the Commission to prepare a Resolution endorsing two amendments to the Alachua County Charter as proposed by the Charter Review Commission. For your information, we are also attaching a copy of Alachua County Resolution No. 00-57 that directs placement of the proposed Alachua County Charter Amendments on the November 7, 2000 General Election Ballot.

Prepared and submitted by:

Marion J. Radson
City Attorney

Kurt Lannon
Clerk of the Commission

RESOLUTION 00 - 57

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA ACKNOWLEDGING RECEIPT OF THE REPORT OF THE ALACHUA COUNTY CHARTER REVIEW COMMISSION, DIRECTING PLACEMENT OF FOUR PROPOSED ALACHUA COUNTY CHARTER AMENDMENTS ON THE NOVEMBER 7, 2000 GENERAL ELECTION BALLOT AS APPROVED AND SUBMITTED BY THE CHARTER REVIEW COMMISSION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Alachua County Home Rule Charter specifies that a charter review commission consisting of not less than 11 nor more than 15 electors of the county shall be appointed by the board of county commissioners at least 12 months before the general election occurring in 1990 and at least 12 months before the general election occurring every ten years thereafter to review the home rule charter and proposed any amendments or revisions which may be advisable for placement on the general election ballot;

WHEREAS, the Alachua County Commission appointed 14 electors of the county to a Charter Review Commission on July 27, 1999;

WHEREAS, the Charter Review Commission has met regularly and in public over the course of 12 months to review the Home Rule Charter for possible amendments or revisions which may be advisable for placement on the November 7, 2000 general election ballot;

WHEREAS, in the course of its public meetings and solicitation of ideas from elected officials and the public, the Charter Review Commission considered and approved the following five proposals as possible amendments or revisions to the Charter:

- county environmental ordinances prevailing over municipal ordinances;
- joint planning
- independent performance auditor;
- appointment and dissolution of the Charter Review Commission; and
- County Commission residency requirement.

WHEREAS, the Charter Review Commission conducted three public hearings on the above-referenced five proposed Charter amendments on May 18, June 1 and June 15, 2000 and, following said public hearings, the Charter Review Commission voted upon the five proposed amendments; and

WHEREAS, of the five proposals considered by the Charter Review Commission, the proposed amendments related to county environmental ordinances prevailing over municipal ordinances, joint planning, appointment and dissolution of the Charter Review Commission and County Commission residency requirement each received favorable votes of at least a majority of the Charter Review Commission;

WHEREAS, the Charter provides that no Charter amendment or revision shall be submitted to the electorate for adoption unless favorably voted upon by a majority of the entire membership of the Charter Review Commission;

WHEREAS, the Charter further provides that, no later than 90 days before the general election, the Charter Review Commission shall deliver to the Alachua County Commission the proposed amendments or revisions to the Charter and the Alachua County Commission shall by resolution place such amendments or revisions on the general election ballot;

WHEREAS, the Charter Review Commission has delivered to the Alachua County Commission its report containing the proposed amendments to the Charter and proposed ballot language for submittal to the electors at the November 7, 2000 general election;

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

1. The Alachua County Commission acknowledges receipt of the report of the Alachua County Charter Review Commission, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference as if set out in full.
2. The following proposed amendments to the Alachua County Charter, approved by favorable vote of at least a majority of the membership of the Charter Review Commission and submitted by the Charter Review Commission, shall be placed on the ballot and submitted to the electors of Alachua County at the November 7, 2000 general election:

1. Proposal changing the relationship of county and municipal ordinances when a county ordinance regulates air or water pollution.

- a) Section 1.04, Relation to municipal ordinances, of the Alachua County Charter is amended to read:

Municipal ordinances shall prevail over county ordinances to the extent of any conflict. Notwithstanding the foregoing, if the county and a municipality enact ordinances establishing different standards for the purpose of protecting the environment by prohibiting or regulating air or water pollution, the ordinances imposing more

stringent standards shall prevail to the extent of the difference and be fully enforceable within the boundaries of such municipality; however, the ordinances imposing less stringent standards shall not be deemed to conflict with ordinances imposing more stringent standards and shall also be fully enforceable within the boundaries of such municipality.

- b) Ballot question. The amendment in subsection "a" above shall be offered to the electorate of Alachua County at a referendum to be conducted on November 7, 2000. The wording of the proposition on the ballot shall be substantially as follows:

ALACHUA COUNTY CHARTER AMENDMENT 1

Relationship between county and municipal ordinances regulating air or water pollution.

SHALL THE ALACHUA COUNTY CHARTER BE AMENDED TO PROVIDE THAT BOTH COUNTY AND MUNICIPAL ORDINANCES ESTABLISHING STANDARDS FOR PROTECTING THE ENVIRONMENT BY PROHIBITING OR REGULATING AIR OR WATER POLLUTION BE ENFORCEABLE WITHIN THE BOUNDARIES OF MUNICIPALITIES?

2. Proposal authorizing joint planning agreements.

- a) Section 1.5., Land Use Planning, is added to the Alachua County Charter to read:

Each municipality shall be responsible for land use planning within its respective boundaries and the county shall be responsible for land use planning in the unincorporated area. Notwithstanding the foregoing, the county and any municipality may enter into an interlocal agreement to provide for joint planning in portions of the unincorporated area not located within any area designated pursuant to general or special law as a reserve for annexation by another municipality or in portions of the area within such municipality.

- b) Ballot question. The amendment in subsection "a" above shall be offered to the electorate of Alachua County at a referendum to be conducted on November 7, 2000. The wording of the proposition on the ballot shall be substantially as follows:

ALACHUA COUNTY CHARTER AMENDMENT 2
Authorization for joint planning agreements

SHALL THE ALACHUA COUNTY CHARTER BE AMENDED TO AUTHORIZE INTERLOCAL AGREEMENTS BETWEEN THE COUNTY AND MUNICIPALITIES TO PROVIDE FOR JOINT PLANNING WITHIN THE MUNICIPALITY AND PORTIONS OF THE UNINCORPORATED AREA NOT RESERVED FOR ANNEXATION BY ANOTHER MUNICIPALITY?

3. Proposal related to appointment and dissolution of the charter review commission.
- a) Section 4.2 (B) 1 and 6 (Amendments and revisions by charter review commission) of the Alachua County Charter is amended to read:
- (B) *Amendments and revisions by charter review commission.*
- (1) A charter review commission consisting of not less than eleven (11) nor more than fifteen (15) electors of the county shall be appointed by the board of county commissioners at least twelve (12) months but not more than eighteen (18) months before the general election occurring in 1990 and at least twelve (12) months but not more than eighteen (18) months before the general election occurring every ten (10) years thereafter, to review the home rule charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. No member of the state legislature or the board of county commissioners shall be a member of the charter review commission. Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.
- (6) If it does not submit any proposed charter amendments or revisions to the board of county commissioners at least ninety (90) days prior to the general election, the charter review commission shall be automatically dissolved. ~~Otherwise upon acceptance or rejection of the proposed amendments of revisions by the electors,~~ the charter review commission shall be automatically dissolved on the date of such general election.

Upon dissolution of the charter review commission, all property of the charter review commission shall thereupon become the property of the county.

- b) Ballot question. The amendment in subsection "a" above shall be offered to the electorate of Alachua County at a referendum to be conducted on November 7, 2000. The wording of the proposition on the ballot shall be substantially as follows:

ALACHUA COUNTY CHARTER AMENDMENT 3
Appointment and termination of the charter review commission

SHALL THE ALACHUA COUNTY CHARTER BE AMENDED TO PROVIDE THAT A CHARTER REVIEW COMMISSION CANNOT BE APPOINTED EARLIER THAN 18 MONTHS PRIOR TO THE GENERAL ELECTION AT WHICH AMENDMENTS MAY BE PROPOSED AND WILL AUTOMATICALLY TERMINATE ON THE DATE OF SUCH GENERAL ELECTION?

4. Proposal related to county commission residency requirements.

- a) Section 2.2.A (Legislative Branch) of the Alachua County Charter is amended to read:

(A) *The county commission.* 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) commissioner 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. ~~Each candidate for the office of county commissioner shall reside within the district from which such candidate seeks election at the time of qualifying to run for the office, and during~~ 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.

- b) Ballot question. The amendment in subsection "a" above shall be offered to the electorate of Alachua County at a referendum to be conducted on November 7, 2000. The wording of the proposition on the ballot shall be substantially as follows:

ALACHUA COUNTY CHARTER AMENDMENT 4
County commission residency requirements

SHALL THE ALACHUA COUNTY CHARTER BE
AMENDED TO REMOVE THE CURRENT
UNENFORCEABLE REQUIREMENT TO RESIDE WITHIN
THE DISTRICT ON THE DATE OF QUALIFICATION?

5. The Alachua County Commission acknowledges that the Chairman of the Charter Review Commission and legal counsel, in coordination with the County Manager's Office, may make further modifications to the ballot wording set forth above as may be necessary or desirable under the Constitution and laws of the State of Florida, so long as such modifications do not alter the substance and provided any such revisions shall be reported to the Charter Review Commission and the Alachua County Commission.
6. The notice of the Charter amendment referendum election shall be published as provided for in Section 100.342, Florida Statutes.
7. That this resolution shall take effect immediately upon its adoption.

DULY ADOPTED in regular session, this 25th day of July, A.D. 2000.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

BY: Penelope Wheat
Penelope Wheat, Chair

ATTEST:

J. K. "Buddy" Irby
for J. K. "Buddy" Irby, Clerk

APPROVED AS TO FORM:

D. W. [Signature]
Alachua County Attorney

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