

CRC RESOLUTION NO. 2010-004

A RESOLUTION OF THE BREVARD COUNTY CHARTER REVIEW COMMISSION ADOPTING A PROPOSED AMENDMENT TO THE CHARTER OF BREVARD COUNTY, FLORIDA, TO PROVIDE FOR A PROCESS FOR THE REPEAL OF THE BREVARD COUNTY CHARTER; PROVIDING FOR PRESENTATION TO THE ELECTORATE BY THE COUNTY COMMISSION AT A SPECIAL REFERENDUM ELECTION TO BE HELD IN CONJUNCTION WITH THE NOVEMBER 2010 GENERAL ELECTION; PROVIDING THE BALLOT TITLE AND SUMMARY OF THE CHIEF PURPOSE OF THE PROPOSED AMENDMENT; PROVIDING FOR THE COUNTY ATTORNEY TO RENUMBER AND RELETTER ARTICLES AND SECTIONS IN ORDER TO CONFORM THE AMENDMENTS TO THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, after three (3) public hearings and by an affirmative vote of at least ten (10) of the fifteen (15) members, the Brevard County Charter Review Commission may submit a proposal to the Board of County Commissioners to amend the Brevard County Charter; and

WHEREAS, the Charter of Brevard County, Florida mandates that the Charter Review Commission, within one year from the date of its first meeting, present to the County Commissioners its recommendations for amendments to the Charter; and

WHEREAS, the Charter of Brevard County, Florida provides that all amendments and revisions proposed by the Charter Review Commission must be presented by the County Commission to the electorate at the next general election;

NOW, THEREFORE, BE IT RESOLVED BY THE BREVARD COUNTY CHARTER REVIEW COMMISSION:

SECTION 1: That pursuant to Section 7.4. of the Charter of Brevard County, Florida, the County Commission is hereby directed to place on the ballot for presentation to the

electorate, at a special referendum election to be held in conjunction with the November, 2010 General Election, a special referendum issue, the subject of which is to amend Section 7.3 and to provide for a new Section 7.6 of the Brevard County Charter, which would provide for a process to repeal the Brevard County Charter, as more fully set forth in **Exhibit "A"**.

SECTION 2: That the ballot title and summary for the proposed amendments/revisions as referred to above shall appear as follows:

**INCLUDE PROVISIONS IN THE CHARTER THAT PROVIDE A
PROCESS TO REPEAL THE BREVARD COUNTY CHARTER**

Shall the Brevard County Charter be amended to provide for a new section of the Brevard County Charter entitled "Charter Repeal" that would provide for a process by which the electors of Brevard County could call for a referendum on the issue of whether the Brevard County Charter should be repealed?

YES FOR APPROVAL _____

NO FOR REJECTION _____

SECTION 3: That should a majority of electors voting on the above-referenced referendum election vote "YES," thereby approving the above ballot issue, attached **Exhibit "A"** shall become a part of the Charter of Brevard County, Florida.

SECTION 4: That the County Attorney is hereby directed to insure that the appropriate numbers and/or letters are affixed to the Articles and Sections of the Charter in order to conform the Charter to the amendments if approved.

SECTION 5: That if any section, sentence, clause or phrase of this resolution is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

SECTION 6: That this resolution shall become effective immediately upon its adoption.

Adopted this 8th day of July, 2010.

Kendall T. Moore, Chairperson

**RECORD OF VOTE
(CRC 2010-004)**

BOBAY	DISTRICT 1	—	PORTER	DISTRICT 2	—
FINNEY	DISTRICT 2	—	ROSASCO	DISTRICT 3	—
HARRIS	DISTRICT 1	—	SCHMITT	DISTRICT 4	—
HOLTON	DISTRICT 5	—	YOUNG	DISTRICT 3	—
JENKINS	DISTRICT 4	—	ZILAITIS	DISTRICT 5	—
LAMB	DISTRICT 5	—			
LUDWICZAK	DISTRICT 4	—			
LUNDGREN	DISTRICT 2	—			
MOORE	DISTRICT 1	—			
NYE	DISTRICT 3	—			

Resolution **CRC 2010-004** passed _____ on July 8, 2010.

BREVARD COUNTY CHARTER REVIEW COMMISSION

Attest: _____
 Maria Scruggs, Secretary, Charter Review Commission

SSG:DNT:dnt
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EXHIBIT "A"

SECTION 7.3. CHARTER AMENDMENT; CHARTER REPEAL

7.3.1. Amendment by the Board of County Commissioners.

The Board of County Commissioners, upon the concurrence of not less than four members, shall have the authority to propose amendments to this Charter not inconsistent with the State Constitution and with general law.

7.3.2. Amendment or repeal by petition.

Amendments to this Charter, or the repeal of this Charter may be proposed by a petition signed by at least four percent (4%) of the electors from each County Commission District, provided that any such amendment shall embrace but one subject matter directly connected therewith in the manner set forth in subsections 7.3.2.1 through 7.3.2.4. below.

7.3.2.1. Each amendment shall embrace but one subject and matter directly connected therewith. The amendment shall not extend to existing budgets, existing debt obligations, existing capital improvement obligations, salaries of non-elected County officers and employees, the collection of taxes or rezoning of less than five per cent (5%) of the total land area of the County.

7.3.2.2. The sponsor of the measure shall register as a political committee as required by general law, and shall submit a petition setting forth the ballot title, substance and text of the proposed amendment or repeal of the Charter to the Supervisor of Elections. The sponsor must then obtain the signatures on the petition of at least 1% of the electors from each County Commission district and then resubmit the signed petitions to the Supervisor of Elections for verification that the electors signing the petition are qualified voters. When the Supervisor of Elections has verified the signatures, the Supervisor shall report such verification to the Board of County Commissioners.

7.3.2.3. Once the signatures are verified, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years. In the event the verified petition calls for the repeal of the Charter, the three person panel is not required.

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Words in underscored type are additions.

7.3.2.4.2 If at least two members of the panel find that the proposed amendment is consistent with the Florida Constitution, general law and this Charter, then such consistency shall be presumed and the petition shall be returned to the sponsor who must thereafter obtain enough signatures from electors in each county commission district to bring the total number of petition signatures to at least 4% of the qualified electors in each county commission district. The verification procedures for signatures on initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed.

Since this charter does not provide the Board, or the Petitioner with an avenue to determine whether proposed amendments are consistent with the State Constitution or general law, the proposed amendment will be governed by Section 1.3 and Section 1.6 of this charter, and the proposed amendment will be placed on the ballot for approval or rejection. The sponsor of an amendment shall, prior to obtaining signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signature will be affixed. The procedures for initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed. The power to amend this Charter by initiative shall not extend to existing budgets, existing debt obligations, existing capital improvement programs, salaries of non-elected County officers and employees, the collection of taxes, or the rezoning of less than five percent (5%) of the total land area of the County.

7.3.3. Amendment or repeal referendum.

The Board of County Commissioners will cause any Charter amendment proposed under section 7.3.1 or 7.3.2, or a referendum on the repeal of the Charter to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the Supervisor of Elections that the initiative requirements have been met, the Board will, within 30 days, establish the referendum date. The proposed amendment or Charter repeal will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the Board refuses to comply with Section 7.3.2 or refuses to place the proposed amendment or Charter repeal on the ballot as required by this section of the charter, the Board's action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, or the Charter repeal shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than

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forty-five (45) days prior to the referendum. Passage of proposed amendments or the proposed Charter repeal shall require approval of a majority of electors voting in said election.

* * *

7.6 CHARTER REPEAL:

7.6.1 This Charter may be repealed by a vote of a majority of the electors voting in a referendum that is initiated in the same manner that is prescribed for the initiation of charter amendments, as provided in Sections 7.3 and 7.4 of this Charter.

7.6.2 The ballot title and ballot language for the proposed repeal of the Charter shall read as follows:

Repeal of the Brevard County Home Rule Charter

Shall the Brevard County Home Rule Charter be repealed in its entirety?

YES FOR APPROVAL

NO FOR REJECTION

7.6.3 If a majority of the electors voting in a referendum approve this ballot question, then the Brevard County Home Rule Charter shall be repealed and of no further force and effect as midnight of the September 30th immediately following the referendum.

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