

BREVARD COUNTY CHARTER REVIEW COMMISSION**MEMORANDUM NO. 2010-004**

TO: Kendall T. Moore, Chair
Members of the Brevard County Charter Review Commission

CC: Maria Scruggs, Administrative Assistant

FROM: Samuel S. Goren, Office of the General Counsel *SSG*
David N. Tolces, Office of the General Counsel *DNT*

DATE: June 11, 2010

RE: Brevard County Charter Review Commission ("Commission") / Proposal 49 "Ethics in Government"

Pursuant to the Commission's request, the General Counsel's Office consulted with Penny Canales on suggested revisions to Proposal 49, entitled "Ethics in Government," (the "Proposal"). As a result of discussions with Ms. Canales, our office is providing you with two versions of the Proposal. The two versions are as follows:

1. The first version is the version as revised by Ms. Canales, and then revised by our office. The changes indicated in strikethrough and underline are changes made to the version that was attached to the Proposed Resolution 2010-006 at your June 4, 2010 meeting. Ms. Canales and our office were able to agree to all changes except for the reference to "God Almighty" in the first sentence of the proposed Section 1.9. While the reference to "God Almighty" does exist in the Florida Constitution's Preamble the inclusion of the reference in the Brevard County Charter could result in a challenge to the proposal as a violation of the provision of Article I, Section 3, of the Florida Constitution, which prohibits any law respecting the establishment of religion. While the provision may be consistent with the language in the Florida Constitution, we are concerned that the inclusion may result in a legal challenge, which could unnecessarily delay the voters' consideration of this proposed charter amendment.

2. The second version is the version of the proposal that was discussed by the Commission at the June 4, 2010 meeting, with the revisions stated into the record by the General Counsel. This version is generally consistent with the revised version of Ms. Canales' proposal, but for the first sentence. The strikethroughs and underlines are consistent

with the revisions that were discussed at the June 4, 2010 Commission meeting.

The inclusion of either provision is at the Commission's discretion, and we will take any action consistent with the Commission's direction. If you have any questions or concerns, or require any additional information, please do not hesitate to contact our office.

SSG:DNT:dnt

Enclosure(s)

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