

The Charter Review Commission Meeting was held on this date in the First Floor Conference Room of the Lee County Administration Building located at, 2115 Second Street, Fort Myers, Florida with the following Charter Review Commission Members:

CHARTER REVIEW COMMISSION MEMBERS:

Nathan Shaw - Chairman	Kevin Besserer	Ronald Inge
Andrew Sund - Vice-Chairman	Doug J. Congress – <i>Absent</i>	Liza King
Richard Akin	Keith Dean	Randal Mercer – <i>Absent</i>
Noel Address – <i>Absent</i>	Eric Feichthaler	Maryanne Preston
Carl Barraco Jr.	Maribel Sanchez	

LEE COUNTY ATTORNEY:

Deputy County Attorney, Andrea Fraser and
Assistant County Attorney, Joe Adams

CALL TO ORDER:

Chairman Shaw called the meeting to order at 5:10 p.m., followed by the Pledge of Allegiance.

PUBLIC COMMENT:

Chairman Shaw called for Public Comment, and there were five speakers:

- Commissioner Cecil Pendergrass
 - Discussed voluntary annexation. Commissioner Pendergrass stated that as a policy maker and citizen of Lee County, he would like to plan for the future to make sure there is infrastructure and utilities in place for the growth and development of the community and quality of life for the residents. Commissioner Pendergrass stated that he would like for there to be a venue to be able to sit down with City and County Staff when there are issues. He stated that he supports the City’s Home Rule power and that this proposed charter amendment would not impinge on that.
- Norman Cannon
 - Inquired as to why the Committee closed any additional items for discussion or consideration by the Committee.
- Richard Johnson – Mayor of City of Sanibel
 - The City of Sanibel is opposed to the proposal as it diminishes home rule authority.
 - The City of Sanibel is opposed to the proposal as it diminishes individual rights to self-determination.
 - Requested the Commission ask the following questions as it continues to discuss the item:
 1. Is there an identifiable problem the legislation is trying to solve?
 2. Is there a less intrusive way to address the item without infringing in home rule authority or individual rights?
 3. What standards could be written into the proposal so a BoCC vote to approve or deny would not be completely subjective.
- John Agnew – City of Sanibel Attorney
 - Discussed voluntary annexation
 - Interlocal Agreements could suffice instead of the proposed amendment
 - Home Rule authority would be diminished
- Robert Eschenfelder – Village of Estero Attorney
 - Discussed voluntary annexation and his opposition to the proposed amendment

CITY OF FORT MYERS, MAYOR KEVIN ANDERSON PRESENTATION ON VOLUNTARY ANNEXATION:

City of Fort Myers, Mayor Kevin Anderson discussed the Lee County Charter Review Commission voluntary annexation proposal. He stated the City of Fort Myers strongly opposes the proposed charter amendment for the following reasons:

- Current State Statutes governing municipal voluntary annexations are adequate.
- If a property owner desires to voluntarily annex into the City for government services, the City should be the only approving authority for the incorporation.
- Requiring County Commission approval for voluntary annexations will cost property owners interested in annexation time and money to seek the additional level of approval.
- The City supports local Home Rule. The proposed Charter Amendment would infringe upon and erode

local Home Rule for the municipalities in Lee County.

- The City of Fort Myers has annexed 131.44 acres of land over the last five years through voluntary annexation. Property owners that petition for annexation understand the costs and benefits of incorporation.
- Placing further restrictions on the ability of property owners to voluntarily annex their property into a municipality is an infringement on citizen property rights.
- As currently drafted, the Charter Amendment could result in annexation petitions being withheld or denied for arbitrary, political or subjective reasons, as there are no review criteria for approval or denial, only criteria establishing which properties would require approval by the Board of County Commissioners.
- The annexation of property into a municipality usually has very minimal, if any, fiscal impact on the County, unless the property lies within a Municipal Services Taxing/Benefits Unit (MSTBU). Typically, any revenue loss would be offset by the reduction or elimination of operating costs.

VILLAGE OF ESTERO, MAYOR JON MCLAIN PRESENTATION ON VOLUNTARY ANNEXATION:

Village of Estero, Mayor Jon McLain stated that he appreciated Commissioner Pendergrass's comments regarding working with the municipalities to move forward as needed. The Mayor stated there needs to be a new amendment to the Charter, however, he is not in favor of the current proposed amendment. The Mayor stated he is in opposition of the proposed changes to the Lee County Home Rule Charter Amendment. The Mayor stated he considers the proposed Charter changes as they are written as a direct attack on Home Rule. He stated there are processes and statutes in place that allow for any issues with annexation that may arise. The Mayor stated there should open discussion in the appropriate format of what annexation means and how to deal with infrastructure problems appropriately. As elected and appointed officials there must be respect for the citizens and not create layers and road blocks that encumber their ability to have local control of what they are looking for within their own Municipalities.

Commission Discussion: Commission member Richard Akin stated there are defined specific and narrow geographical areas that are subject to the Board of County Commissioner approval in the other charter counties with voluntary annexation provisions and asked from a legal standpoint of why the other counties limited it in that way. Assistant County Attorney Joe Adams stated that he can only assume that it was brought forward to protect rural areas or historic districts and were not meant to deal with the infrastructure issue. Attorney Joe Adams referenced a case in Pinellas County that states that whatever is approved regarding voluntary annexation has to be in the Charter. In the Pinellas case, there was going to be a process for voluntary annexation that would be subsequently approved by the Board of County Commissioners in an Ordinance and the Court struck it down stating it is not what the statute allows and that the voters need to approve the process. Commission member Ronald Inge stated that he thinks it would be a great idea to have the County and City sit down and have discussions regarding drafting an Interlocal Agreement. He also stated that while Voluntary Annexation is an issue, he had concerns about the drafted language that was provided to the Commission by the County Attorney's office. Commission member Keith Dean stated there should be a higher standard that has to be met in order to annex a piece of property. Commission member Eric Feichthaler stated that he will not be in favor of amending the Charter because of his experience with previous litigation between the City of Cape Coral and Lee County over annexation of a large parcel. Vice-Chairman Andrew Sund stated he has concerns about infrastructure investments. He also stated there are serious property rights concerns. Vice-Chairman Andrew Sund stated the proposed charter change is unnecessary. Chairman Nathan Shaw agreed with Keith Dean's comments. Commission member Kevin Besserer stated that property owners should be given the opportunity to decide. Commission member Liza King stated there should be consistency.

COMMISSION DISCUSSION ON COMMISSION ON ETHICS:

Chairman Shaw suggested postponing the discussion on Commission on Ethics since there were three Commission members missing. Commission member Kevin Besserer asked if there needed to be a motion regarding moving forward the Commission on Ethics item forward and Deputy County Attorney Andrea Fraser stated the Commission on Ethics item will be moved forward to the October 10, 2023. It was agreed by the Commission to hear the item at the October 10, 2023 Charter Review meeting.

OTHER COMMISSION MEMBER ITEMS FOR DISCUSSION:

Deputy County Attorney, Andrea Fraser had no further items to discuss.

ADJOURNMENT:

Commission member Kevin Besserer moved to adjourn the meeting, seconded by Vice-Chairman Andrew Sund called and carried.

The Chairman adjourned the meeting at 6:15 p.m.