

***AD-HOC Weld County Home Rule Charter
Amendment Study Committee
Meeting Minutes – May 16, 2018***

- I. CALL TO ORDER – ROLL CALL:** Jackie Johnson, Chair, called the meeting to order at 6:00 p.m., in the Weld County Administration Building, Pawnee Conference Room. The following Home Rule Charter Committee (HRCC) members were present: Al Dominguez, Sam Gluck, Dave Kisker, Mark Lawley, Ray Patch, Justus Pettit, Garrett Varra and James Welch. Also present were Bruce Barker - County Attorney, Jennifer Finch - Public Information Officer (PIO), and Esther Gesick - Clerk to the Board.
- II. APPROVAL OF MINUTES – MAY 9, 2018:** Ray Patch moved to approve the Minutes of May 9, 2018. The motion was seconded by Justus Pettit, and it carried unanimously.
- III. OLD BUSINESS:**
- A. DISCUSSION CONCERNING WHETHER TO HAVE REPORTS FROM COUNTY DEPARTMENT HEADS: Mr. Kisker stated, although it is not a Charter issue, he would like to provide feedback to IT concerning the comments received regarding difficulty obtaining public information on the internet. There was consensus to invite department heads from Human Resources, Planning, Health, Information Technology, and Clerk to the Board to provide a ten-minute overview of the role of their departments and policies concerning transparency and notification of public hearings. Following discussion, it was agreed that the County Council members have been aware of the Charter review process, they are welcome to attend the open public meetings, and they may also speak at the last public meeting concerning the proposed recommendations. The HRCC members agreed with Mr. Kisker's offer to submit a reminder at the next County Council meeting that the HRCC minutes and audio are available for review online.
- B. DISCUSSION CONCERNING NEED FOR FURTHER INFORMATION ABOUT CODE OF ETHICS AND WHISTLEBLOWER PROGRAM: Mr. Barker stated the Code of Ethics ballot issue was approved by the voters on November 7, 2017, and is found under Section 16-9 of the Home Rule Charter. He explained '*Ethics in Government*' is a portion of the Colorado Constitution which was enacted, in 2006, and gives various standards for employees and elected officials to abide by, specifically with respect to defined gifts, conflicts of interest, and appearance of impropriety. The last section of Title 29 states a Home Rule County may enact its own standards if they are the same as, or similar to, those set forth in the Colorado Constitution. He stated the Colorado Independent Ethics Commission (IEC) determined that Home Rule counties and municipalities are not exempt from the Colorado Constitution. Additionally, the Weld County voters adopted language which prevents the Board of County Commissioners from changing the Ethics Rules without an amendment to the Charter by the voters. Mr. Barker gave a brief overview of the IEC jurisdiction and structure to investigate complaints made by citizens. There was discussion concerning the question raised during public input as to whether a Home Rule

County should be subject to the State overseeing ethics rules. Mr. Barker stated the IEC found that they have jurisdiction because the County's standards were insufficient. He further stated the IEC's rulings continue to grow and provide more case law and examples to make conclusions as to whether certain courses of conduct are appropriate, or not.

Mr. Barker explained a County performance audit report was provided to the County Council last summer which suggested the need for a Whistleblower Program. The Commissioners tasked Don Warden - Director of Finance and Administration, Bruce Barker - County Attorney, and Ryan Rose - Director of Information Technology, with comparing similar programs provided by other counties. He reported the most common options were an online portal or a "1-800" number to report anonymous complaints to a designated group to review the facts and determine a course of action. The HRCC members discussed the need for specific criteria to substantiate legitimate misconduct, and an assurance to protect anonymity as much as possible. Mr. Barker stated a work session is scheduled for next week with the elected officials to discuss how to address situations when misconduct or criminal activity is determined. He noted that in Weld County the public may also present issues of concern to their various elected officials, although it is not anonymous.

IV. NEW BUSINESS:

- A. DECISIONS ABOUT PROCEDURES GOVERNING DECISION MAKING: The HRCC members agreed that a motion should be made and seconded, followed by discussion and vote by the group, and majority wins. They determined that dissenting opinions would be summarized and presented to the Commissioners for consideration. At the Chair's suggestion, they agreed to not talk over ongoing discussion, and the Chair would note a raised hand and take input in the order received. Additionally, if the discussion is ongoing, a HRCC member may motion to table the matter to the following meeting; however, if the motion fails, then the conversation will continue through to completion. Chair Johnson clarified tonight's discussion is to review the issues proposed, eliminate any items the group is not interested in pursuing, and then break out the remaining discussion items on upcoming Agendas.
- B. REVIEW SUMMARY OF ISSUES RAISED IN PUBLIC HEARINGS, BY BRUCE BARKER AND COUNTY OFFICIALS: Mr. Barker explained a general cleanup is complicated by possible misinterpretation of what constitutes 'cleanup'. Chair Johnson proposed inclusion of a recodification provision as a topic to discuss and requested Mr. Barker provide examples from other jurisdictions. The HRCC members reviewed the Summary Memo from Chair Johnson, a copy of which is labeled Exhibit A and attached to these minutes with notations of which items will be included on future Agendas for discussion. Mr. Kisker suggested certain items that are Code related that were raised by the public should be compiled and passed on to the Commissioners for separate consideration.
- C. PROPOSAL OF ADDITIONAL ISSUES AND PRIORITIZATION BY HRCC MEMBERS: In response to questions, Mr. Barker explained the logistics of electing a standing Charter Commission to review the Charter on an ongoing basis, versus

incorporating a re-codification provision which could then address housekeeping and grammatical changes at a future date.

IV. PUBLIC INPUT:

- A. Sherrie Peif clarified her prior testimony which expressed concern with the current grievance process of allowing an employee to appeal to the Board of Commissioners, which then can overturn the decision of the Grievance Board and effectively overturn the decision of another elected official.

- V. **ADJOURNMENT:** Chair Johnson stated the next meeting will be held on May 23rd, at 6:30 p.m., in the Weld County Administration Building – Pawnee Conference Room, to discuss the selected issues and begin forming a recommendation. There being no further discussion, Chair Johnson adjourned the meeting at 8:11 p.m.

*Minutes submitted by Esther E. Gesick, Clerk to the Board



MEMO

TO: HRCC MEMBERS
FROM: JACKIE JOHNSON
RE: PUBLIC HEARINGS
DATE: 5/11/2018
CC: BRUCE BARKER

The purpose of this Memo is to summarize the issues that have been raised concerning possible amendments to the Weld County Home Rule Charter. I have relied on the minutes of our public hearing meetings, documents provided to us at those meetings by citizens, information provided by Weld County officials and my own notes. Please let me know if you think I have omitted any issues and/or if you wish to propose other issues. I have not attempted to prioritize the issues, but it might be helpful to do so in order to have a guideline for the HRCC agendas in the weeks to come

*(CLERK'S NOTE: Items selected by HRCC members for future Agendas are marked **DISCUSS**.)*

I. ISSUES RAISED BY BRUCE BARKER

DISCUSS 1. Section 2-3: Cooperative Agreements

"Expanding" the language to be more similar to Colorado Statute

DISCUSS 2. Section 3-6 – Commissioner – Departments

Indicates 4 instead of 5 Departments

DISCUSS 3. Section 4-1: Departments Created

Identifies coordination duties; provides for assistance of second commissioner

The issue of coordination was also addressed in public hearings, with suggestions as follows:

- *Ms. Grillos objected to lack of coordination assignment to every Commissioner*
- *Ms. Peif move from Coordinator structure to County Administrator*
- *Ms. De Lorenzo define meaning of coordination*

DISCUSS 4. Section 3-8: Powers and Duties

Eliminates requirement to act by ordinance in cases of contracts and disposition of real property

This issue was also addressed in public hearings, with suggestions as follows:

- *Ms. Grillos proposed contracts over \$150,000 remain subject to the ordinance provision*
- *Ms. De Lorenzo proposed contracts over \$500,000 be subject to the ordinance provision*
- *Ms. De Lorenzo define meaning of coordination*

DISCUSS 5. Section 3-9(3): Compensation

Eliminate, as it was a “transitional” section

DISCUSS 6. Section 3-11(1): Meetings

Revise to clarify that section is applicable to “Official Meetings” and further clarify language concerning cancellation

DISCUSS 7. Section 6-1: Elective Officers

Clarify that the offices of Commissioner, Assessor, Sheriff and Clerk and Recorder are elected; replace “Elective” with “Elected”

Although Mr. Barker did not address the issue of elected vs. appointed officers, it was addressed in public hearings with suggestions as follows:

- *Ms. Grillos proposed electing all county officers rather than appointing them to assure the Commissioners do not amass too much power*
- *Ms. Peif supported keeping the Assessor and Clerk and Recorder*
- *Ms. De Lorenzo supported electing all county officers*
- *Mr. Mueller favored appointment of the Treasurer and the Assessor due to the expertise needed in those offices.*

DISCUSS 8. Section 10-1: Qualifications (Sheriff)

Determine whether the current language is consistent with present Colorado statute

- *Sheriff Reams indicated that the Charter’s qualifications are stronger than state law; suggested deleting Section 10.2-Bond and Section 10.6-Jailer-County Not Furnish Residence; expressed preference for keeping the office elected; supported current term limits; and stated that Sections 10.3(Duties), 10.4(Qualifications of Undersheriff), and 10.5(Duties of the Undersheriff) should be retained.*

NO 9. Sections 4-3(B) (Hospital Division) and 14-7(Limitation on Annual Tax Levy)

Recommended no changes

II. ADDITIONAL ISSUES RAISED IN PUBLIC HEARINGS

DISCUSS 1. Section 3.3: Qualifications of Members (Commissioners)

- *Ms. De Lorenzo proposed that Commissioners be required to live in their geographic district for at least one year prior to announcing candidacy or being appointed*
- *Ms. Kilpatrick agreed with a one-year residency requirement*
- *Ms. Grillos proposed a residency requirement of six months prior to announcing candidacy or appointment*
- *Ms. Peif proposed a one year prior to “filing paperwork to run” residency requirement*

DISCUSS 2. Section 3-4: Terms of Office (Commissioners)

- *Ms. Grillos expressed her preference for three full terms rather than three consecutive terms*
- *Mr. Kilpatrick preferred a limit of two, four-year terms*
- *Ms. Peif favored three total term limits*
- *Ms. De Lorenzo proposed no more than a total of two consecutive terms*

**At the request of Mr. Kisker, the following persons testified concerning term limits, as follows:*

- *Ms. Patersen stated term limits minimize risk but loss of experience can be unfortunate*
- *Mr. Grimaud favored two consecutive terms with the ability to seek a different office “after one off cycle”*
- *Mr. Oplinger endorsed the current provision of three terms to retain expertise*
- *Mr. True favored a two-term limit*

NO 3. Section 3.8(4)(c): Powers and Duties (Commissioners)

- *Ms. Grillos proposed deleting the phrase “and through them, direct the functions of county offices, departments, divisions and agencies*

NO 4. Section 3.8(4)9(p) – Powers and Duties (Commissioners)

- *Ms. De Lorenzo suggested that travel expenses related to county business should be paid at the “Current Fiscal Year Per Diem for Colorado”*

NO 5. Section 3.11(2) – Meetings

- *Ms. Grillos proposed that special meetings be posted on the website*
- *Ms. De Lorenzo proposed notice of special meetings at least twenty-four hours prior to the meeting on the county website*

DISCUSS 6. Section 4.2 – Department of Finance and Administration

- *Ms. Grillos proposed a residency requirement for the finance officer*
- *Ms. Peif suggested a finance manager separate from the county administrator/manager and proposed that top administrators, including the finance director be full time employees and subject to a 60-mile residency requirement*
- *Ms. De Lorenzo offered language concerning the duties of the finance officer and she proposed the position be full time, with no telecommuting*

NO 7. Section 4.2(8)(b) – Division of Human Resources

- *Ms. Grillos proposed that the decision of the personnel appeals board be final, with no appeal to the Commissioners*
- *Ms. Peif also favored making the grievance board decision final*

NO 8. Section 5.1 – County Attorney-Appointment

- *Ms. Grillos favored electing the county attorney*

NO 9. Article VI – Elective Officers

- *Public input regarding this issue is set forth in paragraph 1.7 above*

DISCUSS 10. Article XIII – County Council

With respect to issues of term limits and residency requirements, the public input was similar to that regarding other county offices. The following suggestions were offered:

- *Ms. Grillos proposed the Council develop and enforce a code of ethics and that its decisions should be final; that it should, with “independent professional assistance, develop and implement a Whistleblower program; that it have an “independent” budget; that it should have sole authority and duty to implement recommendations of performance review audits, to order investigation of any elected official and to impose discipline that it have independent counsel and sole authority to select same; and that it have authority to attend meetings and work sessions of any elected official.*
- *Mr. Grand noted that the Council was not precluded from looking at ethical complaints and he expressed concern with the balance between Commissioners and Council, recommending a process/mechanism in the Charter to force people to discuss or mediate issues and to protect citizens who file a complaint*

- *Ms. Peif suggested that the Council be in charge of rotating performance audits with an outside auditor and that it have authority to enforce its recommendations; and that the Council should set not only salaries, but also benefits for Commissioners*
- *Ms. Kilpatrick favored a separate budget and legal counsel for the Council*
- *Mr. James favored giving greater authority to the Council to serve as the code of ethics watchdog and to oversee a whistleblower program and giving it an independent budget*
- *Ms. De Lorenzo also favored these suggestions*
- *Ms. Peif supported giving the Council more enforcement authority such as fines and punishments for violation of the Charter and also providing it a separate clerk and legal counsel*
- *Mr. Kilpatrick stated that the County Council should be strengthened by receiving compensation such as mileage, benefits and expense reimbursement, as well as independent legal counsel, when needed, and authority to hear appeals of the Commissioners; and he favored giving authority to review, censor or impose fines for unbecoming conduct by an elected official*
- *Mr. Mueller stated the Council has become very political and favored its elimination*

DISCUSS 11. Article XIV – Finance and Budget

- *Ms. Grillos proposed requiring at least two public hearings on the annual budget and a further hearing if changes are made and that the budget given notice of such hearings and a copy of the budget on the County website*
- *Ms. De Lorenzo concurred with Ms. Grillos' suggestions and further proposed a public hearing on the five-year capital improvements program and budget*

12. Miscellaneous

Without specific charter references, the following issues were raised at the HRCC's public hearings:

DISCUSS - Listing of qualifications for all public offices

THEME - Need for "transparency" in all areas of county government

DISCUSS - Requiring that elected officials not have been convicted of a felony

DISCUSS - Adding a recodification provision to the Charter to "clean up" antiquated items and inaccurate language

NO - Restrictions on previously elected officials and/or employees from serving on an appointive county board

