

***AD-HOC Weld County Home Rule Charter
Amendment Study Committee
Meeting Minutes – May 30, 2018***

- I. CALL TO ORDER – ROLL CALL:** Jackie Johnson, Chair, called the meeting to order at 6:30 p.m., in the Weld County Administration Building, Pawnee Conference Room. The following Home Rule Charter Committee (HRCC) members were present: Sam Gluck, Dave Kisker, Mark Lawley, Ray Patch, Justus Pettit, Garrett Varra and James Welch; Al Dominguez was excused. Also present were Bruce Barker - County Attorney, Frank Haug, Assistant County Attorney, and Esther Gesick - Clerk to the Board.
- II. APPROVAL OF MINUTES – MAY 23, 2018:** Ray Patch moved to approve the Minutes of May 23, 2018. The motion was seconded by Sam Gluck, and it carried unanimously.
- III. NEW BUSINESS:**
- A. COUNTY ATTORNEY’S RECOMMENDATIONS:**
1. Cooperative Agreements – Section 2-3: Mr. Barker proposed language to be consistent with State statute; however, Chair Johnson commented there may be voter concern about the possibility for imposition of taxes or the incurring of debt. The consensus was to make no change.
 2. Action by Ordinance – Section 3-8(4)(b): Mr. Barker explained the disposition of property is undefined; however, the State statutes indicate it must be done by Resolution of the Board of Commissioners, whereas, the Charter requires an Ordinance. Mr. Kisker expressed concern with the lack of public input on general contracts and commented it is not easy for the general public to track when items of business are going to be presented for consideration. He stated public input suggested a threshold amount of \$500,000.00 for contract review and approval through the Ordinance process. Mr. Barker confirmed there is an inherent conflict between this provision and the Bid process. Mr. Kisker further commented the public may submit written comments; however, general public testimony is not commonly requested in work sessions, and they have to follow the process very closely in order to know the timing of the Agenda. Mr. Gluck agreed with the need for transparency and open processes. Mr. Lawley expressed it should be the responsibility of the public to pay attention and attend specific meetings if particular topics are of interest to them. Mr. Barker confirmed it is typically at the Board’s discretion whether to allow public comment, and Chair Johnson stated that is typical protocol of school boards, congress, etcetera, in which the public may submit written comments to their elected representatives or just rely on their judgement. Following discussion concerning difference between bid contracts and the large volume of professional service and grant contracts, Mr. Kisker moved to amend Section 3-8(4)(b) to add “contracts in the amount of \$2.5 million or greater” and delete “and disposition of real property”. The motion was seconded by Mr. Varra. Following discussion, they amended their motion to move the phrase “in other matters” so the sentence reads: “*Unless otherwise required*

by statute, the Board shall act only by ordinance in matters of legislation, appropriations, and contracts in the amount of \$2.5 million or greater, and in other matters by resolution or motion, as may be appropriate.” A motion was made by Mr. Gluck, and seconded by Mr. Pettit, to table the motion for further consideration and requested a follow-up summary of the optional language provided by the County Attorney.

3. Sheriff’s Qualifications – Article X: Mr. Barker stated the Sheriff had no recommended changes concerning qualifications; however, he did suggest repealing Sections 10-2 and 10-6. Mr. Patch moved, and Mr. Kisker seconded the motion to repeal Section 10-2 (Bond) and 10-6 (Jailer – County not Furnish Residence). Mr. Barker confirmed, even if the bond language is removed, it is still required by State law and insurance is also provided. He also noted a bond is required for the other elected official positions. The motion was amended to retain Section 10-2, since it is consistent with all of the other elected offices and still repeal Section 10-6, since it is an obsolete practice. The motion carried unanimously.
4. Recodification Provision: Mr. Barker stated he reviewed 20 municipal Home Rule Charters and found one in Colorado Springs which contained a recodification provision. He stated their definition only deals with numbering and letter structure, not textual corrections, which does not address the desired ability to make grammatical and structural revisions with a three-reading ordinance or some other sort of public hearing process. Mr. Barker proposed the inclusion of a new Section 17-3 – Recodification, to read: *“A recodification of the Home Rule Charter may be made by ordinance, approved by the Board of County Commissioners, provided that the recodification does not, in any manner, substantially change the provision of the Charter.”* Mr. Pettit moved to approve the general intent of the change, pending further refinement by the County Attorney and future approval of the HRCC members. The motion was seconded by Mr. Kisker and carried unanimously.

B. COUNTY COMMISSIONERS:

1. Residency Requirements – Section 3-3: Public input suggested several different opinions concerning the length of residency in order to be eligible for candidacy. Mr. Barker stated the Election terminology references “district” and he provided the statutory definition of “residency”. There was discussion concerning the value or need of three Commissioner districts and whether new residents in a district can adequately represent the interests of the citizens. A motion was made by Mr. Kisker and seconded by Mr. Welch to change the district residency requirement to six months prior to announcing candidacy. Upon a call for vote, the motion failed three (Kisker, Welch, Gluck) to five (Johnson, Lawley, Patch, Pettit, Varra). Since this was a split vote topic, the HRCC members agreed the issue of residency requirements should be included in any summary provided to the Board.
2. Term Limits – Section 3-4: Mr. Kisker proposed this matter be postponed until Mr. Dominguez could be present to discuss, and the HRCC members agreed.

3. Grievance Hearing Appeal – Section 4-2(B)(8): Public input expressed concern with the Charter provision for appeal of Grievance Board decisions to the Board of Commissioners and affording the Board the ability to overturn personnel decisions of another elected official. Mr. Barker commented it goes both ways and could work in favor of the elected official as well. Chair Johnson explained the appeal to, and review by, the Board of Commissioners is limited to the record of the appeal hearing and transcript, similar to a court of appeals decision. Frank Haug, Assistant County Attorney, concurred and added the Appellant may submit a written brief, and he reviewed Sec 3-4-70 of the Weld County Code which defines the members of the Grievance Board and the subsequent appeal process. Mr. Barker explained the Charter would need to be amended to state the Grievance Board decision is final, which would then necessitate a Code change. He noted there would still be the option for further appeal to other entities, such as the EEOC (Equal Employment Opportunity Commission). Mr. Lawley suggested this may be a matter to present to the Board of Commissioners for consideration of Code revisions. Mr. Barker added, if the intent is to make the grievance board decision final, then additional language would also need to be included to clarify that process is not withstanding any other appeal provision in the Charter. The consensus was to leave the language as it currently exists.

III. ADDITIONAL MEETING DATES: Ms. Gesick stated the HRCC members need to select the dates/times for the remaining meetings so the information can be posted for the public. Mr. Lawley requested an additional topic of discussion be added to a future agenda concerning the Bidding Procedure detailed in Section 14-9(3) and the ability to give preference to local bidders if price and quality are competitive. Following discussion, the HRCC members agreed to schedule General Meetings on June 6th and 13th, conduct a Public Meeting on June 20th to present the recommendation, followed by two additional General Meetings on June 27th and July 11th to prepare the final draft prior to presenting the formal recommendation to the Board of Commissioners on July 23, 2018.

V. ADJOURNMENT: Chair Johnson stated the next meeting will be held on June 6th, at 6:30 p.m., in the Weld County Administration Building – Pawnee Conference Room, to discuss the selected issues and continue forming a recommendation. There being no further discussion, Chair Johnson adjourned the meeting at 8:41 p.m.

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

Section 3-7. - Clerk to the Board.

- (1) The Clerk to the Board shall be appointed by and under the direction of the Board of County Commissioners of Weld County. The Board of County Commissioners may employ such Deputy Clerks to the Board as may be necessary or required to carry out the duties of the office. The deputies shall be subject to the personnel policies, rules and regulations, and classifications and compensation plans adopted pursuant to Section 4-2, Article IV(B) of this Charter. The Clerk to the Board may be made subject to the same provisions of Section 4-2, Article IV(B), by resolution of the Board.
- (2) The Clerk to the Board shall be custodian of the County seal, and records and papers of the Board of County Commissioners; shall maintain a journal and record of Board proceedings; record all motions; resolutions; actions of and votes by the Board; shall be the agent of the County for service of process; and shall perform such other duties as are now or may hereafter be prescribed by law for Clerks of Boards of County Commissioners or by this Charter.

Section 3-8. - Powers and Duties.

- (1) The Board of County Commissioners shall be the governing body of the County. It shall exercise all the powers and perform all the duties now required or permitted or that may hereafter be required or permitted by State law to be exercised or performed by County Commissioners in either home rule or non-home rule counties.
- (2) It shall exercise all powers of the County to determine policy and to enact legislation.
- (3) It shall be responsible for the proper exercise by the County departments and other agencies established by this Charter or by the Board for all executive and administrative powers and duties delegated thereto.
- (4) Without limiting the generality of the foregoing or diminishing the total authority and responsibility of the Board as herein provided, the powers and duties of the Board shall include duties and powers to:
 - (a) Perform or provide for the performance of any duties and responsibilities required by statute or the Constitution of Colorado of County Commissioners in home rule counties and non-home rule counties.
 - (b) Enact legislation including such means of enforcement thereof as shall be authorized by law, and otherwise formally promulgate county policy. Unless otherwise required by statute, the Board shall act only by ordinance in matters of legislation, contracts in the amount of \$2,500,000 or greater, and appropriations,

~~and disposition of real property, and in other matters by ordinance, resolution or motion, as may be appropriate, in other matters. (To be considered June 6, 2018.)~~

- (c) Appoint, remove and establish qualifications of department heads, and through them, direct the functions of county offices, departments, divisions and agencies.
- (d) Appoint and remove the County Attorney, pursuant to Section 5-1 of this Charter, and retain such other professional advisors as the Board may deem necessary.
- (e) Adopt an administrative code.
- (f) Develop, or cause to be developed, a system of employment policies, rules, job classification and compensation plans in accordance with generally accepted principles and promulgate such policies, rules and plans, under the authority of and in compliance with the provisions of pertinent Colorado and Federal statutes and this Charter.
- (g) Initiate suits or actions on behalf of the County.
- (h) Create such agencies, boards and commissions as the Board may deem necessary or as may be required by State law, and appoint the members thereof. The action creating an agency, board or commission shall also set forth compensation, duties, and responsibilities as well as any qualifications and conditions of service. The Board may designate itself to perform the functions and exercise the process of any such board or commission, unless prohibited by State law or this Charter.
- (i) Appropriate funds for all lawful purposes.
- (j) Establish and levy taxes, charges, fees and licenses.
- (k) Regulate, license, and tax utilities to the extent permitted by law.
- (l) Purchase or otherwise acquire, hold, own, sell, trade, transfer, divide, lease, encumber, or reserve interest in real and personal property, and receive gifts and grants, in the name of the County.
- (m) Approve and execute, on behalf of the County, all contracts. Contracts shall be executed for the Board by the Chairman.
- (n) Act as a Board of Appeals to hear complaints on actions taken by county boards, commissions and departments. Procedure for appeals shall be as set forth in the administrative code, or by resolution of the Board. No person shall be denied the

Section 10-6. - Jailer — County not Furnish Residence. Repealed.

~~The County shall not be required to furnish the Sheriff, as keeper of the jail, nor any deputy appointed for that purpose, with living quarters. This shall not relieve the Sheriff of his duty to safely keep all prisoners committed to his custody according to law.~~

Section 10-7. - Terms of Office.

No person shall serve more than three full consecutive terms as Sheriff.

ARTICLE XI - COUNTY TREASURER

Section 11-1. - Bond.

The County Treasurer shall execute to the people of the State of Colorado, and file in the office of the County Clerk, a bond, as provided by this Charter and approved by the Board. The sureties shall be responsible for the acts of the County Treasurer and his deputies.

Section 11-2. - Duties.

- (1) The County Treasurer shall appoint a Chief Deputy to act in his absence, disability, or in case of a vacancy in the office, and such Chief Deputy shall perform all the duties of County Treasurer during such absence or until such vacancy shall be filled.
- (2) The County Treasurer may appoint such other deputies as may be necessary or required to carry out the duties of the office.
- (3) The County Treasurer shall exercise all of the powers and perform all the acts and duties now required or that may hereafter be required by State law to be exercised or performed by the County Treasurer.
- (4) The County Treasurer may exercise those discretionary county functions and powers, and provide such services as may be authorized by law.

Section 11-3. - Qualifications of Chief Deputy.

The Chief Deputy shall have had a minimum of five years investment experience in handling investments, of the type handled in the office of the County Treasurer.

Section 17-2. - Conflicting Amendments.

If there is any conflict or inconsistency between amendments voted upon at the same election and more than one of said amendments is adopted, then the amendment receiving the largest number of votes shall prevail as to such conflict or inconsistency and the adopted amendments receiving the lesser number of votes shall, if severable, be nevertheless effective except as to the matters of conflict or inconsistency.

Section 17-3 – Recodification. (To be considered June 6, 2018.)

A recodification of the Home Rule Charter may be made by ordinance approved by the Board of County Commissioners, provided that the recodification does not, in any manner, substantially change the provisions of the Charter.

ARTICLE XVIII - TRANSITIONAL PROVISIONS

Section 18-1. - Purpose of Article.

The provisions of this Article relate to the transition from the existing form of government to the form of government established by this Charter. Where inconsistent with the foregoing Articles in this Charter, the provisions of this Article shall constitute exceptions thereto.

Section 18-2. - Effective Date of Charter.

Upon its adoption, this Charter shall become effective on the first day of January, 1976, except as these transitional provisions require earlier or later implementation.

Section 18-3. - Transition of ~~Elective~~ Elected County Offices.

After adoption of this Charter, the status of ~~elective~~ elected officers shall be as follows:

- (1) Incumbent County Commissioners shall continue to serve as Commissioners of districts numbered one, two and three until such time as their terms of office would have expired if this Charter had not been adopted.
- (2) All other existing ~~elective~~ elected officers, as provided for in this Charter, shall continue to serve in their respective offices until such time as their term of office would have expired if this Charter had not been adopted.

Section 18-4. - Elections to Fill New Commissioner Positions.

ATTENDANCE LIST

5-30-2018

NAME - PLEASE PRINT LEGIBLY	ADDRESS, CITY, ST, ZIP	EMAIL/PHONE NUMBER	COUNTY OF RESIDENCE?
BARBARA WITWIER	235 N. 49 th Ave Place, Greeley, 80634	970-353-6731	Weld
Lynette Kilpatrick	20487 CR 33 Lasalle		Weld
Gerald Kilpatrick	20487 WCR 33 Hasalle, CO		Weld