

***AD-HOC Weld County Home Rule Charter  
Amendment Study Committee  
Meeting Minutes – June 6, 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: 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 30, 2018:** Ray Patch moved to approve the Minutes of May 30, 2018. The motion was seconded by Garrett Varra, and it carried unanimously.

**III. OLD BUSINESS**

**A. COUNTY COMMISSIONERS**

1. Term Limits – Section 3-4(3): This matter was initially tabled and then discussed following item number 2 below. Mr. Kisker provided a summary of the input received from the public. Mr. Barker expressed concern with restricting term limits, stating it would be unconstitutional to prevent future candidacy opportunities. He also addressed “Full” consecutive terms, and explained if an individual is appointed to fill a vacancy, they are still eligible for three full terms. He also noted that local jurisdictions may allow for additional terms; however, going less than two terms could also be argued as unconstitutional.

Mr. Gluck moved to amend Section 3-4(3) to state the Commissioners “shall not serve more than two full consecutive terms.” The motion was seconded by Mr. Kisker. Mr. Barker stated a District Commissioner could theoretically run again in two years for an open At-Large position. He also indicated, in 2002, the voters increased the number of terms from two to three. Mr. Dominguez stated he does not support term limits because they de-incentivize the elected official from performing their civil service. Mr. Barker clarified this section is specific to the Commissioners, and the terms of other elected offices do not have to be consistent with it. He stated, prior to 2002, the Commissioner positions were limited to two full terms and there were no term limits for other elected offices. Following discussion, upon a roll call vote, the motion failed 2 to 7, with Mr. Gluck and Mr. Kisker voting in the affirmative.

Mr. Kisker proposed a restriction of four years before candidates could run again for a different elected office. Mr. Barker reiterated his concern restricting terms and options for candidacy as being unconstitutional. There was discussion concerning the will of the voters, less restrictive government, increased transparency, and avoiding career politicians. The final consensus was to make no changes.

2. Powers and Duties, Actions by Ordinance – Section 3-8(4)(b): Mr. Barker stated in one year he found less than ten (10) contracts that were for \$2.5 million or more. He expressed concern with Department of Human Services CORE Services contracts with the State, due to timing constraints that would be further hindered by the traditional ordinance process. He noted the option for emergency ordinances and possible exemptions for State entities. He further explained that the sale of real property (i.e., Hokestra Gravel Pit on Highway 119) must be done by contract, and often real estate transactions are lengthy and subject to renegotiation of terms before the final closing, which would require multiple ordinance revisions. Lastly, he addressed the issue of County-acquired properties that often require construction or remodeling which typically results in one or more Change Orders, and he further questioned feasibility of the ordinance process in those instances. There was discussion concerning the need for transparency, balanced by not creating more bureaucracy, but following the Charter provisions which reflect proper processes on large contract expenditures, not incoming funds. Mr. Welch proposed adding a new provision under Section 14 requiring that expenditures in excess of \$2.5 million must be posted for a certain amount of time. Mr. Barker referenced Section 16-6, Public Notice, as another possibility for addressing the concern of public notice for large expenditures.

Mr. Pettit moved to accept the original verbiage presented by the County Attorney for Section 3-8(4)(b) to remove contracts and disposition of property, as well as add new language to Section 16-6 to state: “. . . prescribed by the Board; *except for approval of contracts for expenditures in the amount of \$2,500,000 or greater, notice shall be by two publications ten (10) days apart prior to approval.*” The motion was seconded by Mr. Dominguez (See Exhibit A, pages 1 and 2). Following discussion concerning the concepts, Chair Johnson clarified the amendments and the motion carried unanimously.

3. Summary report of information items: Chair Johnson requested the HRCC members consider the possible structure and content of a document which could be provided to the Board of Commissioners summarizing various informational items.
4. Recodification Provision – Section 17-3: Mr. Barker displayed potential language and explained a definition could also be included in the Charter to clarify the intent. Mr. Kisker moved to accept the following language: “*A recodification of the Home Rule Charter may be enacted 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.*” The motion was seconded by Mr. Gluck, and it carried unanimously (See Exhibit A, page 3).

#### IV. NEW BUSINESS

##### A. MISC

1. Bidding Procedure – Section 14-9(3): Mr. Lawley clarified he has no issue with the Charter provision giving preference to Weld County bidders; however, he wants to ensure the selected companies have proper qualifications (i.e., 2018 Jail

Expansion Bid). Mr. Barker clarified in that instance the residency issue didn't arise because the Commissioners awarded the contract to the lowest bidder, which was also a County resident. There was discussion concerning a local vendor being determined by the location of a branch office, versus a corporate headquarters or location of process service through a registered agent. Following discussion, the consensus was that the current language is sufficient.

- V. **ADJOURNMENT:** Chair Johnson stated the next meeting will be held on June 13th, 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 8:15 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~~, and appropriations, ~~and disposition of real property~~, and by ordinance, resolution or motion, as may be appropriate, in other matters.

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to be severable and shall not be affected thereby and the effect of such decision shall not extend beyond that required by the court's ruling.

Section 16-5. - Article and Section Titles.

The Article and Section Titles of this Charter are inserted for reference and convenience only and shall not be construed to limit, prescribe, or in any way control the scope or intent of any provision therein.



Section 16-6. - Public Notice.

Notice to the public of ordinances and of certain official acts, events, determinations, proceedings or meetings shall be given. Unless defined otherwise in the ordinances, rules or laws pertaining to the procedure to which the public notice relates, public notice may be by publication in a newspaper of general circulation in the County or by such other media and in such form as may be prescribed by the Board; except for approval of contracts for expenditures in the amount of \$2,500,000 or greater, notice shall be by two publications ten days apart prior to approval. When the notice informs the public of some event to take place in the future, it shall be published at least five days prior to such event.

Section 16-7. - Vacancy.

Every ~~elective~~ elected county office shall become vacant, on the happening of any one of the following events, before the expiration of the term of office:

- (1) The death of the officer.
- (2) The resignation of the officer.
- (3) The removal of the officer, by recall or otherwise.
- (4) The officer ceasing to be a resident of Weld County, or in the case of an officer required to live in a district, ceasing to be a resident of the district from which elected.
- (5) The officer's refusal or neglect to take his oath of office, or renew his official bond, or to deposit such oath and bond within the time prescribed by law.
- (6) The final decision of a competent tribunal, declaring void an officer's election or appointment.
- (7) The final decision of a competent tribunal finding an officer guilty of a crime.

No proceeding contesting the adoption of a Charter amendment shall be brought unless commenced within one hundred eighty days after the election adopting the measure.

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.

A recodification of the Home Rule Charter may be enacted 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.

