



County of El Dorado

Charter Review Committee
330 Fair Lane, Building "A"
Placerville, CA 95667

Minutes - Draft Charter Review Committee

Kris Payne, District III, Chair
Don Fuller, District II, Vice-Chair
Rachel Michelin, District I
Michael Powell, District IV
Jeanne Harper, District V

Alternate Members:
Richard Ross, District I
Jim Hill, District II
Randy Pesses, District III
Gary Campbell, District IV
(No Alternate), District V

Shawne Corley, Assistant Chief Administrative Officer
Judith Kerr, Principal Assistant County Counsel
Jim Mitrising, Clerk of the Board of Supervisors

Thursday, July 13, 2017

4:00 PM

2850 Fairlane Court, Placerville, CA
Planning Commission Hearing Room

CALL TO ORDER

Present: 5 - Don Fuller, Kris Payne, Michael Powell, Jeanne Harper and Richard Ross

Absent: 1 - Rachel Michelin

PLEDGE OF ALLEGIANCE TO THE FLAG

Member Harper led the Pledge of Allegiance to the Flag.

PUBLIC COMMENT (LIMITED TO 3 MINUTES PER SPEAKER)

None.

Matters not on the agenda may be addressed by the general public during Public Comment.

MEMBER REPORTS

Member Fuller reported that he has begun reviewing several other county Charters.

Member Harper requested the contact email addresses for the members and alternates. Emailed a survey to key community members regarding the Charter. Reminder that the annual National Night Out will be held on Tuesday, August 1, 2017.

Member Payne distributed copies of the following:
Ballot Pedia article: Chartered Local Government
California State Association of Counties: County Structure and Powers

STAFF/COUNSEL UPDATE

The Clerk of the Board offered the reminder that the Planning Commission hearing room has been reserved for the next three (3) commission meetings in the event the members are not able to identify a location to hold these meetings within the boundaries of each Supervisorial District as previously discussed by the Committee.

No Counsel update.

ACTION ITEMS

1. 17-0728 Approval of the June 26, 2017 meeting Minutes.

A motion was made by Member Harper, seconded by Member Fuller to approve the Minutes from June 28, 2017.

Yes: 5 - Don Fuller, Kris Payne, Michael Powell, Jeanne Harper and Richard Ross

Absent: 1 - Rachel Michelin

2. 17-0688

Committee to review and discuss the 2015-2016 Grand Jury Report and provide direction to staff as needed. (Cont. 6/26/17 Item 3)

No formal action taken. The Committee provided direction to the Clerk to create a separate agenda item for each of the Grand Jury Findings for individual action at their next meeting.

Chair Payne led a discussion of the 2015-2016 Grand Jury Report (Case 15-04) "21st Century County Charter."

As to Grand Jury Finding 1: Charter Section 202: Term of Offices for county Supervisors

Member Payne commented on the discussions/actions of the 2014 Charter Review Committee and encouraged other members to share their thoughts. Member Fuller stated he isn't prepared to make decisions on these matters today and that further research is needed.

Alternate Member Ross stated he agreed with Member Fuller. Commented that members of the Board of Supervisor's may choose not to run for a second term if they don't want to. Further commented that the experience needed to be a Supervisor is not written down in a manual. Certain elected positions have become institutions in county government and some of those positions are not as visible in their day to day operations. The Board operates in a public forum, other elected officials with the exception of the District Attorney and Sheriff, for example, do not have the same level of exposure to the public.

Counsel Kerr stated that the issue of term limits for non-Board members was discussed by the 2014 Charter Review Committee and that counsel issued a legal opinion thereto. Her understanding is that today's discussion is specific to the term limits for the members of the Board of Supervisors.

Alternate Member Ross stated his comments were to frame the larger impact to the county infrastructure.

Counsel Kerr stated that the State sets the terms (Govt. Code 25000 et.seq.) of members of the Board. No similar statutes exist for other elected officials.

Member Powell stated the Board is referred to as the Legislative Body and the Board operates as the Executive Body and referenced how it is similar to the Board of Directors of a private company. A Board of Directors hires a CEO with delegated authority to run the organization within established rules. Prior attempts to change the CAO designation to a CEO failed. Over the years the Board has had a lot of turnover. To allow for professional level Board members to run for and stay in office, an option is to take away term limits.

Member Harper agreed with Member Fuller that additional time is needed to obtain information from residents in District 5.

Public Comment on the discussion of Finding 1 of the Grand Jury report:

Larry Weitzman commented that the reason there are term limits for the Board members is because they have the power to make and change laws. They are supported by people with a lot of money and there are term limits in place to prevent "power based developing." Los Angeles county recently implemented term limits. There are no term limits for other elected officials as set forth in Government Code which also demonstrates some elected positions require minimum qualifications. Asked the question: What if we had term limits for doctors? Further commented that elected department heads still have to run for office every four years. Stated that professional department heads do not have power.

Sue Taylor stated that term limits can break the cycle of corruption. The

founding fathers never intended for politics to be a lifetime career for an individual. Adding a change to term limits on the ballot will likely result in a "large battle" that might negatively impact other items the committee recommends be placed on the ballot.

John Hidahl commented that he was speaking as a member of the public and not as the District 1 Supervisor. There have been several Supervisors who serve two terms, leave for a term and return for two more terms. Stated that term limits do not completely prevent power dynasty's and that those can transfer to other Supervisors. Commented that elected officials may not listen to Supervisors who are in their second term because they know that term will end. There is a balance to be looked at here. Commented that Roger Niello (former interim Director of Community Development) talked with Mr. Hidahl about why there is an 8 year term limit and that it would be better to have three successive 4 year terms. The two successive 4 year terms establishes a churn process which impacts cohesive relationships.

Terry Gherardi stated that she concurs with what Mr. Weitzman said. Has served a Supervisor as their assistant two times. Is in favor of the current term limits.

Member comments following public comment:

Member Powell stated he spoke with Registrar of Voters Bill Schultz about the voter turnout for 2016. The turnout for the county was 58%. Each district had about 44,000 voters and that in the District where he lives, the Supervisor was elected with only 20% of the voters voting or about 8,000 votes.

Member Fuller stated he's not certain voter turnout can be tied to term limits of Supervisors. Interested in learning about when the current term limits issue was last on a ballot?

Member Harper stated that according to the Charter, section 202 was ratified November 4, 2004.

Member Payne mentioned that the Charter has a page that indicates when it was approved and when sections were amended.

As to Grand Jury Finding 2: Charter Section 203: Filling of Vacancies

Member Payne read the Grand Jury finding.

Member Fuller stated that in reading other county charters the vacancy was filled by affirmative vote from the other 4 Supervisors.

Member Payne read the supporting commentary from the Grand Jury on this Finding. The Charter Review Committee of 2014 recommended the number of days to avoid gaps in the event of a vacancy.

Member Powell commented that since 1999 there have been three occasions where this language needed to be referred to. If the vote of remaining Supervisors is gridlocked, the Governor can still make the appointment to fill the vacancy.

Member Payne again mentioned we are discussing section 203 and not 209.

Member Harper stated she likes simplicity and therefore agrees with the Finding.

Alternate Member Ross stated if a position is vacant, he's concerned that the other four Supervisors can choose who fills the vacancy is not representative government.

Member Payne stated that the 2014 Charter Review Committee considered the additions with the cost of elections in mind.

Public comment on the discussion of Finding 2 of the Grand Jury report:
Larry Weitzman stated that the right of the voter is the most cherished right in this country. Having other Board members or the Governor select a Supervisor is not a good practice. People should have the right to vote for their Supervisor in this case. The county became a Charter county to set its own rules.

Sue Taylor agrees with Larry Weitzman and the section should be left the way it is. Voters do not want other Board members or the Governor selecting a Supervisor to fill the vacancy.

As to Grand Jury Finding 3: Charter Section 209: Recall

Member Payne read the Grand Jury Finding.

Member Harper commented that a member in her community is against this Grand Jury Finding.

Member Fuller did not feel this was an appropriate change.

Alternate Member Ross felt this change might provoke litigation.

Member Payne shared his concern with the language of this Finding. Asked Counsel if "good-cause" can be defined in this case.

Counsel Kerr agreed that the Finding is vague in that regard and this is the type of language that can open a community up to potential litigation.

Public comment on the discussion of Finding 3 of the Grand Jury report:

Larry Weitzman commented that enacting this would take away the franchise of the voter. "Good-Cause" is fraught with potential litigation. This county is founded on checks and balances. Spoke to the Mitigation Fee Act and the former CAO actions.

Sue Taylor agreed with Mr. Weitzman and this Finding should not be moved forward.

Member Payne reminded the committee that this would be continued to the next meeting as a separate action item.

As to Grand Jury Finding 4: Charter Section 204: Compensation

Member Payne read the Grand Jury Finding.

Member Fuller stated it appears that the effort here is to ensure the public knows the salaries and benefits of the Board Members.

Member Powell stated he believes the origin of this Finding is from the Ron Briggs and Norma Santiago case. Ordinances have to be publicly noticed before they become law. A Resolution doesn't have the same provisions for noticing.

Counsel Kerr stated that the current law states the Supervisors' salaries are established by ordinance.

Member Powell asked if there was anyone who can explain what the Briggs/Santiago case was all about.

Member Harper asked if the Finding was attempting to establish rules for more than just the salaries of Supervisors in the form of benefits.

Member Payne read the supplemental commentary in the Finding. Asked Counsel to verify the references made in the Finding to ordinance code section 2.15.030 are accurate.

Member Kerr stated that the state Constitution directs that the salaries of Board

members be set by ordinance, meaning it is subject to referendum.

Public comment on the discussion of Finding 3 of the Grand Jury report:

Larry Weitzman commented on the Briggs / Santiago case. Salaries of the Board must be set by Ordinance. Stated the Board passed an ordinance that made it possible to set Board salaries by Resolution.

Member Payne read the proposed language in the Finding.

Alternate Member Ross felt the phrase "clearly set forth" is ambiguous.

Member Harper left the meeting at 5:39 P.M.

Member Fuller stated he is not clear on what problem existed to prompt the Grand Jury Finding.

Member Powell stated the Grand Jury Report came out before a decision was rendered in the Briggs/Santiago case.

Counsel Kerr mentioned this topic was before the Supreme Court in the 1994 case "Voters for Responsible Retirement vs. Board of Supervisors."

FUTURE AGENDA ITEMS

No additional direction on future agenda items other than those provided for in Item 2 on today's agenda.

The committee elected to hold their next meeting in the Planning Commission hearing room.

Committee to provide direction to staff as needed regarding future agenda items.

ADJOURNED AT 5:44 P.M.