

# Board of County Commissioners

## Workshop

**Date of Meeting:** April 7, 2008

**Date Submitted:** April 1, 2008

**To:** Honorable Chairman and Members of the Board

**From:** Benjamin H. Pingree, County Administrator  
Andrea B. Simpson, Deputy County Administrator  
Jennifer Langston, Special Projects Coordinator

**Subject:** Board Consideration of Pursuing a Charter

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### **Statement of Issue:**

This agenda item requests Board consideration of the steps and procedures necessary to become a Charter County.

### **Background:**

On February 4, 2008, the Board directed staff to research becoming a Charter County. The following information provides background as to what a Charter County is, an analysis of what this would mean to Wakulla County, and the process necessary to becoming one.

### **Analysis:**

#### **Constitutional vs. Charter Government**

Counties originated in the U.S. as administrative subdivisions created by states to improve their ability to administer large, primarily rural and agricultural, territories. As they were creatures of the state, counties' powers were controlled by the state legislature and agencies established by the legislature to make certain that state laws were followed.

Many counties are no longer the rural, agricultural areas they once were. In Florida, the creation of the cities of Pensacola and St. Augustine, wherein a measure of home rule was permitted, established a precedent that led to the formation of many other cities in the state. The formation of a city in Florida begins with the creation of a charter to determine the administrative mechanism and then a vote by the populace to accept the charter. Once accepted by the public, the city is incorporated. In every case, the charter predates the creation of the city.

Counties, in contrast, are created by the state in an effort to decentralize the larger government. While cities are created from the bottom (the public) up, and are therefore controlled by the will of the people, counties are created from the top (the state) down. In constitutional government, counties are ruled by the state constitution, legislative statutes and the traditions of a government entity controlled without regard to the local residents' desires.

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This county structure works as long as the county remains rural and agrarian. The inherent weakness surfaces when the population growth outside the incorporated cities becomes sufficient to require “Municipal-type” services, and policies mandated by the state are not accompanied with offsetting monetary support. (See Attachment #1 for basic differences between Charter and Non-Charter Counties.)

*What is a Charter County?*

Prior to 1968, county governments operated under a principle of law known as Dillon’s Rule: local governments can exercise only such authority as is conferred by legislative action. In the absence of specific authority, a county government was powerless to act. Dade County (Miami) had challenged this concept through a series of constitutional amendments. In 1968 the state enacted a new constitution with far reaching changes, especially in the area of home rule.

In 1968, the electors of Florida granted local voters the power to adopt charters to govern their counties. Charters are formal written documents that confer powers, duties, or privileges on the county. They resemble state or federal constitutions and they must be approved, along with any amendments, by the voters of a county.

According to several Florida constitutional scholars, the establishment of charter government was designed to remove the resolution of local problems from the state legislature's busy agenda and to grant the county electorate greater control over their regional affairs.

To date, there are 19 charter counties in Florida. Collectively these counties are home to more than 75 percent of Florida's residents (Attachment #2).

<b>County</b>	<b>Year Charter Adopted</b>	<b>No. of Municipalities</b>	<b>2006 Population</b>
Alachua	1987	9	240,764
Brevard	1994	15	531,970
Broward	1975	31	1,740,987
Charlotte	1986	1	154,030
Clay	1991	4	169,623
Columbia	2002	2	61,466
Duval	1968	5	861,150
Hillsborough	1983	3	1,131,546
Lee	1996	5	549,442
Leon	2002	1	271,111
Miami-Dade	1957	34	2,422,075
Orange	1987	13	1,043,437
Osceola	1992	2	235,156
Palm Beach	1985	37	1,265,900
Pinellas	1980	24	947,744
Polk	1998	17	541,840
Sarasota	1971	4	367,867
Seminole	1989	7	411,744
Volusia	1971	16	494,649

Home rule, or the authority of a county to self govern over issues of local concern, separates charter counties from non-charter counties. Only by becoming a charter county is a county granted its full home rule authority provided by the Florida Constitution. Like the counties in which voters have approved charters, the citizens of Wakulla County are extended the right under the Constitution of the State of Florida to adopt their own home rule county charter.

The desire for citizens to have more of a say in their government may describe the popular appeal of County Charters. The state statutes do not provide for citizen initiative, referendum, or recall at the county level. A charter provides a mechanism in place by which citizens may be called upon, or in many cases may initiate, to decide how and when the county government addresses public policy. Not only do citizens have the ultimate approval authority of a proposed charter, but citizens are often instrumental in the development of their county home rule charters.

Three primary factors influence county home rule in Florida:

- A pattern of government agencies whose functions and interrelationships are outdated, duplicated and, in some cases, nonsensical;
- Increasing pressures on county government from rapid growth and urbanization;
- Serious financial problems caused by reductions in federal and state spending paralleled by increases in state and federal mandates on local government. This is made worse by deficiencies in state and local fiscal policies.

Should the Board pursue and be successful at passing a Charter, Wakulla County would be the smallest (population-wise) Charter County in Florida.

*What would a Charter mean to Wakulla County?*

Should the Board wish to pursue a Charter, the following are some benefits that Wakulla County currently cannot realize under the current form of government:

I. Enhanced citizen participation and control of the government process.

- Achieve Home Rule and greater local control of the organization and operation of county government
- Permit greater flexibility in county government by providing appropriate mechanisms for change at the local level
- Make county government more responsive to the people it is intended to serve.

II. Meet Demands for Self-Determination

- It enables local citizens to provide local solutions to local problems by determining how their county government will organize and function.
- By petition and vote of the people, the charter can be amended.
- By petition and vote of the people, new ordinances can be initiated and existing ordinances can be repealed.

- By petition and vote of the people, County Commissioners can be removed from office, in other words, Commissioners are subject to “recall” as provided in state law.

### III. Excessive State Control

- Without Home Rule, counties are often slow to respond to changing conditions, because they must rely on specific state statutory authority before they can act.
- Because states face an increasing number of statewide problems, their ability and their desire to consider county level problems are diminished.
- Home Rule provides a county with an additional means of solving problems, particularly when a unique problem exists that is not of statewide concern: it enables the county to deal with matters of local concern without relying on the state legislature.

### IV: Improves County Government Structure:

- It may allow for uniform support services, discontinuing duplication of support type activities among offices and providing cost savings.
- It may centralize authority responsibility, and accountability with the elected governmental unit, and it may eliminate “buck-passing”.
- It may provide central direction within a county by replacing numerous independently elected officials with a single administrator, allowing the governing body to focus attention on the policy making functions of government.
- A Charter Review Commission will periodically review the charter and may propose amendments for consideration at the next general election.
- The County Commission without having to go to the Legislature for a special law can create local laws that are not in conflict with or specifically prohibited by the State law.
- By a vote of three Commissioners, the County Commission may propose an amendment to the charter to be voted on by the citizens at a general election.

### V. Allows Intergovernmental Relations:

- Local legislative authority, which may be granted under Home Rule, enables counties to carry out area wide programs such as preservation, and water pollution, and waste disposal.
- The county may be the most appropriate governmental unit for resolving conflicts among the urban, suburban and rural interests within the county.

### VI. Community Redevelopment Agencies (CRA)

- Without Home Rule, a municipality within the County can create a new CRA and does not need to have Board of County Commissioner approval. As such, the tax growth within a CRA would be pumped back into the CRA, and not available countywide to address the needs of the entire citizenry.

### VII. Municipal Public Service Tax

- As a charter county, Wakulla County would have the ability to levy a Public Service Tax (PST) on the purchase of electricity (up to 10 percent) in the unincorporated areas of the County including statutory exemptions. This option is

not available to non-charter counties. Tax proceeds are considered general revenue for the charter county.

- In addition, the Communications Services Tax (CST) authorized by the 2001 Legislature includes the PST on telecommunications services for charter counties.
- Wakulla County as a non-charter county levies a local Communications Services Tax. Charter counties are allowed to levy the local CST at a higher percent. Some examples of services subject to the tax are: Local, long distance, and toll telephone, cable television, direct-to-home satellite, mobile communications, including detailed billing charges, private line services, pager and beeper (fax).
- Specifically, Wakulla County has approximately 4500 citizens utilizing cable services.

Other concepts that Charters may seek to address are (but are not limited to): districting schemes (e.g., at large versus districts), term limits, lengths of terms, administrative structure, partisan versus non-partisan elections, restructuring of constitutional officers/functions, initiation of petitions, recall, setting of Commissioners' salaries, whether County ordinances prevail in municipalities, etc. (See Attachment #3 for comparison of these and other issues among current Charter Counties).

#### Process to Become a Charter County:

Part II, Chapter 125, Florida Statutes provides two methods to establish a county charter government: The county commission can take the lead and set up a Charter "study" Commission to write the charter; or a petition signed by 15% of the registered voters can be presented to the county commission which is then required to set up the charter commission. The charter commission then holds public hearings to write the charter. Within 18 months of the first meeting, the Charter Commission must present the Board of County Commissioners a proposed Charter.

Part IV, Chapter 125, Florida Statutes, the "Optional County Charter Law," provides the statutory guidelines for counties proposing a home rule charter to the local electorate by ordinance. This section does not require a citizen study component, however, counties using this method of charter adoption may appoint a citizen study committee to review and make recommendations on a home rule charter draft and to get citizen input on a charter that reflects the views of the community.

Most counties begin with a "simple," or "starter" charter concept. Charters like these do not seek broad changes to county government. Rather, simple charters provide a mechanism for citizens of a county to decide when and how to address areas of particular local concern, provide an ability to keep pace with the ever changing environment of local government and distinguish the County as a charter county with all the home rule authority granted by the Florida Constitution.

Per the Supervisor of Elections, ballot language should be provided to her office no later than June 7, 2008 for the charter question to be posed to the electorate on the primary election ballot, or October 1, 2008 to be on the November ballot.

Conclusion

In conclusion, a county charter is a local home rule constitution - a living document in place to address the challenges and opportunities unique to a county reflecting the needs and desires of its citizens. Importantly, in becoming a Charter County, the Board would have a “seat at the table” when CRAs are proposed within the County. Without a charter, the County is subject to the establishment of CRAs without regard to what is in the best interest of the *entire* County. Additionally, the County’s Charter could be drafted in a way that County ordinances with regard to land preservation, and natural resource protection etc., would prevail over municipality ordinances with regard to these and planning and zoning matters.

Should the Board desire, staff could be directed to draft a simple or starter charter that does not substantially change any aspect of how Wakulla County government functions - leaving all aspects of government as is today under current law. Upon approval by the electorate, the Board would then convene a Charter Review Commission to make study and make recommendations to the Board on any changes that would prove beneficial to the citizens of Wakulla County. In short, this option would direct staff to establish a “foundation charter” leaving future reforms, if any, for voters to decide on an issue-by-issue basis.

The Board could also direct staff to hire Kurt Spitzer & Associates as a consultant on this endeavor (Attachment #4). Charter initiatives are most successful when a diligent education component is included and citizens are well informed on the matter. Kurt Spitzer & Associates are experts with regard to Florida Charters. Due to this firm’s extensive knowledge and experience regarding Florida Charters, the Board would be within its authority to “sole source” the hiring of this consultant. The cost for this consultant would be \$10,000 as presented in their proposal (Attachment #5). The proposal encompasses assistance with drafting (and re-drafting) the charter, researching and responding to questions from the Board, staff or citizens, facilitating meetings or hearings regarding the charter and drafting appropriate ballot language.

Likewise, the Board could convene a Charter Commission via resolution. The Charter “study” Commission would be created by Resolution and would be given 18 months to complete a Charter. Under this scenario, the Board must place the Charter on the ballot and would have no authority to change the document.

In either case, in the end, the final Charter document is presented to the voters. A simple majority is needed to adopt the charter.

**Options:**

1. Direct staff to draft a simple or starter Charter that presents Wakulla County Government as found in current State law.
2. Direct staff to engage Kurt Spitzer & Associates as consultants on this endeavor.
3. Direct staff to draft a Resolution that creates a Charter “study” Commission.
4. Board Direction.

**Recommendation:**

Options #1 and #2.

**Attachments:**

1. Charter versus NonCharter County Comparison
2. Florida's Charter Counties
3. Charter County Comparisons
4. Vitae on Kurt Spitzer
5. Kurt Spitzer & Associates Proposal