

CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 09/05/06

SUBJECT:	JECT: Objection to Certain Amendments to the Volusia County Charter proposed by the Charter Review Commission					
		Administration				
RECOMMEN		_				
Motion to add Charter	opt Reso	olution No. 06- $\frac{93}{2}$	objecting to certain	Amendments to t	the Volusia County	
SUMMARY:			·-			
and intent of and Florida	the Mun Statutes s the righ	cipal Home Rule s. The purpose	e proposed Charter A Power Act, which is t and intent of Mun and to control the dire	found both in the f iicipal Home Rule	Florida Constitution e was to grant to	
ATTACHME	NTS: [] Ordinance	[X] Resolution	[] Budget Res	olution	
[]Other []	Support	Documents/Cont	racts Available for R	eview in Manager	's Office	
CITY ATTOR	RNEY	MA) Also	Approved as to Form	and Legality	Date 8-28-06	
CITY MANA	GER	lly.	Approved Agenda Ite	m For:	9/5/06	
COUNCIL A	CTION:	[] Approved [] Conti	as Recommended [] Di nued to Date Certain	isapproved [[] Approved with] Tabled Indefinitely Modification:	

RESOLUTION NO. 06-93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, FLORIDA OBJECTING TO CERTAIN AMENDMENTS TO THE VOLUSIA COUNTY CHARTER PROPOSED BY THE CHARTER REVIEW COMMISSION; AUTHORIZING THE CITY TO EXPEND MONEY IN OPPOSITION TO CERTAIN PROPOSED AMENDMENTS TO THE VOLUSIA COUNTY CHARTER TO INFORM THE CITIZENS OF PORT ORANGE OF THE POTENTIAL IMPACT OF THESE CHARTER AMENDMENTS; FINDING THAT THE EXPENDITURE OF PUBLIC FUNDS TO INFORM THE CITIZENS OF PORT ORANGE OF THE POTENTIAL **IMPACT** OF CERTAIN **PROPOSED** CHARTER AMENDMENTS SERVES A PUBLIC PURPOSE AND IS REASONABLY NECESSARY TO PROTECT THE HEALTH. WELFARE AND SAFETY OF THE CITIZENS OF PORT ORANGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Volusia County Charter Review Commission has proposed amendments to the Volusia County Charter.

WHEREAS, the City has a concern that some of the proposed Charter Amendments circumvent the purpose and intent of the Municipal Home Rule Power Act, which is found both in the Florida Constitution and Florida Statutes.

WHEREAS, the purpose and intent of Municipal Home Rule was to grant to municipalities the right to self govern and to control the direction and destiny of their respective jurisdictions.

WHEREAS, as more fully discussed below, some of the proposed Charter amendments have the effect of divesting the municipalities in the Volusia County with the right to self-govern in very key areas, such as controlling and directing growth and development within its

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municipal boundaries.

WHEREAS, the City is concerned that the proposed Charter amendment requiring a County-wide water plan is redundant of the purpose and intent of the Water Alliance of Volusia (WAV) and certain to be plagued with the same practical problems.

WHEREAS, the City is concerned that absent the involvement of the City in disseminating information, its citizens will not otherwise be informed of the potential impacts of approving these Charter amendments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF PORT ORANGE, FLORIDA:

Section 1. The City hereby opposes the following proposed Charter amendments for the reasons hereinafter set forth, which is not intended to be an exhaustive list:

Amendment 1 deals with School Planning and basically provides that there shall be no approved residential density increases unless adequate public schools can be timely planned and constructed to serve the projected increase in student population. Although the City agrees that providing adequate schools for our children is very important, this provision grants to the Volusia County School Board the ability to dictate where development occurs in the County by deciding where the school expansion projects are located. Residential development should dictate where the school expansion projects are needed, and not vis versa. The goals intended to be accomplished by this Charter amendment can be accomplished by local municipalities notifying the Volusia County School District of proposed development plans that would impact local schools within

its jurisdiction and by the School Board representatives regularly attending the municipality's planning board meetings, which by law the School Board representative is a member.

- B) Amendment 2 requires Volusia County to create a County wide water plan.

 The Water Alliance of Volusia (WAV) was created by the local cities and the County to accomplish this exact goal. One of the main impediments to the successful operation of WAV was the fact that the needs and demands of the cities are different depending on whether the city is located on the East or West side of the County. A County-wide water plan will be plagued with the same problems that WAV incurred. There are currently discussions about changing the purpose of WAV and to allow municipalities to enter into separate interlocal agreements to carry out of the goals and objectives of water conservation.
- Amendments 3, 4 and 7 require that the County's comprehensive plan govern land even though annexed into a municipality. By the County's comprehensive plan governing land even though the land has been annexed into a municipality, the County is retaining control over rezonings and development of said property. This circumvents the purpose and intent of the Municipal Home Rule Powers Act. The County takes over the right to regulate and direct the development on real property even though said property is located within a municipality.

Section 2. Since the Charter Review Commission has made a final recommendation to the County Council on proposed charter amendments, and the County Council has

No. 3 and 4. The City Council hereby authorizes the City Manager and staff to object to any additional charter amendments that violate the spirit and intent of the City's Home Rule Power or are otherwise detrimental to the health, welfare and safety of its citizens.

Section 3. The City Manager is hereby directed to forward this Resolution to the County Manager and County Council members and is encouraged to work with the County's representative to address the City's concerns.

Section 4. The City hereby finds that it is necessary to protect the health, welfare and safety and in the public interest of the citizens of the City of Port Orange for the City to expend public funds and resources, to utilize the time of its employees and to utilize it various methods of communication (including but not limited to television, print and internet communications) in order to educate the public concerning the above proposed charter amendments and the negative impacts they will have on the City and its citizens.

Section 5. If a my section, subsection, sentence, clause, p hrase, or p ortion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 6. That all resolutions made in conflict with this Resolution are hereby repealed.

This Resolution shall become effective immediately upon its adoption. Section 7.

ATTEST:	MAYOR ALLEN GREEN
Kenneth W. Parker, City Manager	
Adopted on the day of Reviewed and Approved: City Attorney	

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