

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040663

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a public hearing at 5:00 p.m. to consider adoption of an Ordinance amending the Lee County Charter with the Board-selected Amendments to be approved by Referendum at the November 2, 2004 General Election.

WHY ACTION IS NECESSARY: Section 101.161, Fla. Stat., requires that questions presented to the electorate on the General Election ballot, be directed to the Supervisor of Elections by County Ordinance or Resolution.

WHAT ACTION ACCOMPLISHES: Provides necessary authorizations for the placement of Charter Amendment(s) ballot questions to the voters at the November 2, 2004 election.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT # CW

5:00 #9

3. MEETING DATE:

06-22-2004

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

20 minutes

5. REQUIREMENT/PURPOSE:

(Specify)

STATUTE §101.161, Fla. Stat.

ORDINANCE 96-01

ADMIN. CODE

OTHER Lee County Charter

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT County Attorney

C. DIVISION General Services

BY: David M. Owen
Chief Assistant County Attorney

[Signature]
6/11

7. BACKGROUND:

At the June 1, 2004 meeting of the Board of County Commissioners, the Board received the Final Report from the Charter Review Committee II which contained three (3) proposed Amendments to the Lee County Charter.

The three proposed Amendments are as follows:

(BACKGROUND CONTINUED - NEXT PAGE)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>6/11/04</i>	OA	OM	RISK	GC	<i>6-3-04</i>

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

CO. ATTORNEY
FORWARDED
TO CO. ADMIN.

RECEIVED BY COUNTY ADMIN:
<i>6/11/04</i>
<i>5:30 PM 5/11</i>
COUNTY ADMIN FORWARDED TO:
<i>6-3-04</i>
<i>2 PM</i>

BACKGROUND: (Continued)

Proposed Amendment No. 1. revises Article II, Section 2.2.H of the Charter relating to the adoption of County Ordinances by initiative. Currently, there are no geographical limitations on the location(s) for initiative signatures. The proposed Amendment places a “cap” of thirty percent (30%) on the number of initiative signatures that may be obtained from any single Commission District so that initiative issues proposing County Ordinances will be truly “County-wide” matters. No change is made to the percentage for the total number of signatures needed for the initiative, which is five percent (5%) of the electors qualified to vote in the last General Election (see attached verbiage).

Proposed Amendment No. 2. revises Article IV, Section 4.1.A. of the Charter relating to the adoption of Amendments to the Charter by initiative. Like Amendment No. 1. above, a thirty percent (30%) “cap” is placed on the number of initiative signatures that may be obtained from any single Commission District. Also, as in Proposed Amendment No. 1. above, there is no change to the total number of signatures required for the initiative, which is seven percent (7%) of the electors qualified to vote in the last General Election (see attached verbiage).

Proposed Amendment No. 3. revises two parts of Article IV, Section 4.1.B. of the Charter, which relate to: a) the time of appointment of the Charter Committee members (duration of the Committee), and b) the composition of the Charter Committee membership itself. a) The term of the Committee is being proposed to be extended by six (6) months in order to provide additional time in order to examine potential Charter subjects, and to potentially meet on a monthly rather than a bi-weekly basis so as to facilitate the accomplishment of its charge under the Charter. Members will be appointed by the Board of County Commissioners eighteen (18) months prior to each General (Presidential) Election after November, 2004. b) The Lee County Constitutional Officers are precluded from membership (see attached verbiage).

The Board is required to direct the proposed Charter Amendments that it deems appropriate, to the Supervisor of Elections for placement on the November 2, 2004 ballot.

At its June 1, 2004 meeting, the Board approved all three proposed Amendments, and as the result, all will be placed on the November 2, 2004 ballot.

REQUESTED ACTION: Conduct a public hearing for the Board’s consideration of an Ordinance incorporating the approved, proposed Amendments to the Lee County Charter to the November 2, 2004 ballot.

LEE COUNTY
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 22nd day of June, 2004, at 5:00 o'clock p.m., in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution, Chapter 125, Fla. Stat., and other applicable law. The title of the proposed County Ordinance is as follows:

AN ORDINANCE OF LEE COUNTY RELATING TO CERTAIN PROPOSED AMENDMENTS TO LEE COUNTY ORDINANCE NO. 96-01, AS AMENDED, THE LEE COUNTY CHARTER; PROVIDING FOR THE BALLOT TITLE, BALLOT QUESTION AND TEXT FOR EACH OF THE PROPOSED AMENDMENTS; PROVIDING FOR EFFECTIVE DATES FOR THE AMENDMENTS IF APPROVED BY REFERENDUM VOTE; PROVIDING FOR A SPECIAL REFERENDUM ELECTION FOR APPROVAL OF THE PROPOSED AMENDMENTS; PROVIDING DIRECTION FOR BALLOT LANGUAGE; PROVIDING AUTHORIZATION FOR PLACING THE PROPOSED CHARTER AMENDMENTS ONTO THE REFERENDUM BALLOT FOR NOVEMBER 2, 2004; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE FOR THE ORDINANCE.

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.

2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.

3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2003), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By:  _____
Office of the County Attorney

Ad Size: 2 x 5
Publishing Dates: 6/8/04 & 6/15/04

LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE

NAME OF ORDINANCE: An Ordinance Amending Lee County Ordinance No. 96-01, as Amended, the Lee County Charter for Incorporation of Amendments.

A. Statement of Purpose

To provide a legal mechanism for incorporating any County-proposed Amendments into the Charter that are adopted by the electorate on November 2, 2004.

B. Narrative Summary of Ordinance (Several Sentence Summary)

The Board-approved Charter Amendments that are placed before the electorate at the November 2, 2004 election and approved by the voters, will be legally incorporated into the County Charter (Lee County Ordinance No.96-01, as amended) by the adoption of the Ordinance.

C. Principal Division(s) or Department(s) Affected (List)

1. County Attorney
2. County Administration
 - a) Budget
 - b) Risk

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE OF LEE COUNTY RELATING TO CERTAIN PROPOSED AMENDMENTS TO LEE COUNTY ORDINANCE NO. 96-01, AS AMENDED, THE LEE COUNTY CHARTER; PROVIDING FOR THE BALLOT TITLE, BALLOT QUESTION AND TEXT FOR THE PROPOSED AMENDMENT; PROVIDING FOR EFFECTIVE DATES FOR THE AMENDMENT IF APPROVED BY REFERENDUM ELECTION FOR APPROVAL OF THE PROPOSED AMENDMENT; PROVIDING DIRECTION FOR BALLOT LANGUAGE; PROVIDING AUTHORIZATION FOR PLACING THE PROPOSED CHARTER AMENDMENT ONTO THE REFERENDUM BALLOT FOR NOVEMBER 2, 2004, PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, Lee County is a Florida charter county as established by Article VIII, Section 1(f), Florida Constitution, Section 125.80, Fla. Stat., and Lee County Ordinance No. 96-01, as amended; and,

WHEREAS, Article IV of Lee County Ordinance No. 96-01, as amended, provides that the County may amend its Charter by a vote of the electors of the County; and,

WHEREAS, Article IV, Section 4.1 B. provides for a Charter Review Committee method of amending the Lee County Charter whereby proposed Amendments are submitted by a Charter Review Committee for Board of County Commissioners' approval; and,

WHEREAS, the Board of County Commissioners is required to call an election referendum to determine whether the Charter Amendment as directed by the Board of

County Commissioners contemplated by Article IV of Ordinance No. 96-01, as amended, shall be adopted by the electorate by vote at the General Election of November 2, 2004; and,

WHEREAS, each proposed Charter Amendment that is approved by the electorate at the General Election shall be incorporated into the Lee County Charter (Ordinance No. 96-01, as amended) as further Amendments to the County's Charter; and,

WHEREAS, the adoption of this Ordinance shall provide the appropriate legal mechanism to effect and accomplish the addition of the approved Amendments into the Lee County Charter as they may be approved by the electorate at the General Election of November 2, 2004.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

PARAGRAPH ONE:

The Board of County Commissioners of Lee County, Florida, hereby proposed by the adoption of this Ordinance, the following Charter Amendments to Lee County Ordinance No. 96-01, as amended, the Lee County Charter (Exhibit A., hereto), for the continued governance of Lee County, Florida as a Chapter 125.80, Fla. Stat., Charter County, and as are approved by the electorate of Lee County at the November 2, 2004, General Election.

PARAGRAPH TWO:

The proposed Amendments to the Lee County Charter (Lee County Ordinance

No. 96-01, as amended), to include the ballot title, ballot question and text for the Amendments, are as follows:

SEE EXHIBIT A., ATTACHED HERETO

PARAGRAPH THREE:

The Amendments to the Charter of Lee County, Florida, as proposed by this Ordinance (Exhibit A.) shall become effective January 1, 2005 if the Amendments to the Charter are approved by a "yes" vote of a majority of those duly qualified electors voting on the question posed at the November 2, 2004 Referendum, and shall be incorporated into and become a part of the Lee County Charter (Ordinance No. 96-01, as amended) as the result of the approval of the Amendments by the electorate. If a majority of those voting shall not vote "yes" to the Amendments as proposed in Exhibit A., such proposed Amendments to the Charter shall not be adopted and said proposed Amendments to the Charter and its provisions as proposed in this Ordinance, shall be of no force or effect.

PARAGRAPH FOUR:

The proposed Amendments to the Charter of Lee County, Florida (Exhibit A.), shall be presented to the qualified Lee County electorate by placing the question of whether to adopt same on the Ballot at a Special Referendum Election to be held at the General Election to be conducted on Tuesday, November 2, 2004.

PARAGRAPH FIVE:

The questions on the ballot for the proposed Amendments shall be substantially in the following form:

SEE EXHIBIT A., ATTACHED HERETO

PARAGRAPH SIX:

The Board of County Commissioners of Lee County, Florida, is hereby authorized to adopt all Resolutions and to take all actions necessary in order that the proposed Amendment to the Charter is properly placed on the Special Referendum Ballot to be held at the General Election to be held November 2, 2004. Said Referendum shall be conducted according to the requirements of law governing Referendum Elections in the State of Florida.

PARAGRAPH SEVEN:

It is hereby declared to be the legislative intent of the Board of County Commissioners that if any section, subsection, sentence, clause or provision of this Ordinance is held to be void or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall in no way be otherwise legally affected.

PARAGRAPH EIGHT:

This Ordinance shall become effective upon the receipt of official acknowledgment that it has been duly filed with the Secretary of State of Florida, but shall be of no further force or effect if the proposed Charter Amendments (Exhibit A.

hereto) are not approved by the electorate at the November 2, 2004 Special Referendum.

The foregoing Ordinance was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

BOB JANES	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW COY	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED _____ day of _____, 20____.

ATTEST: CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

EXHIBIT A.

AMENDMENT 1 TO LEE COUNTY CHARTER

Title: County Charter Revision Relating to Petition Signatures for County Ordinances by Citizen Initiative

Summary: County Charter Amendment that provides for limiting the number of petition signatures for (a) County Ordinance(s) proposed by citizen initiative, to no more than thirty percent (30%) of the total number of signatures required in any single County Commission District.

Yes, For Approval _____

No, For Rejection _____

ART. II, SECTION 2.2 H. (1)

H. Initiative.

(1) The electors of Lee County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances upon petition of qualified electors in the County. The number of qualified elector signatures for a valid petition must equal at least five percent (5%) of the electors qualified to vote in the last preceding general election. No more than thirty percent (30%) of the total number of signatures required will be allowed in any single Board of County Commission District.

AMENDMENT 2 TO LEE COUNTY CHARTER

Title: County Charter Revision Relating to Petition Signatures for Charter Amendments by Citizen Initiative

Summary: County Charter Amendment that provides for limiting the number of petition signatures for Charter Amendments proposed by citizen initiative, to no more than thirty percent (30%) of the total number of signatures required in any single County Commission District.

Yes, For Approval _____

No, For Rejection _____

ART. IV, SECTION 4.1 A. (1)

A. Amendments Proposed by Petition.

(1) The electors of Lee County shall have the right to initiate proposed amendments to this Home Rule Charter upon petition of the qualified electors in the County. The number of qualified elector signatures for a valid petition must equal at least seven percent (7%) of the electors qualified to vote in the last preceding general election. No more than thirty percent (30%) of the total number of signatures required will be allowed in any single Board of County Commission District.

AMENDMENT 3 TO LEE COUNTY CHARTER

Title: County Charter Revision Providing for Time of Appointment and Composition of the Charter Review Committee

Summary: County Charter Amendment that provides for appointments to the Charter Review Committee to be made by the Board of County Commissioners eighteen (18) months prior to the General Election rather than twelve (12), and excluding the Lee County Constitutional Officers from Charter Review Committee membership.

Yes, For Approval _____

No, For Rejection _____

ART. IV, SECTION 4.1 B (1)

B. Amendments and Revisions by Charter Review Committee

(1) A Charter Review Committee consisting of fifteen (15) electors of the County shall be appointed by the Board of County Commissioners at least ~~twelve (12)~~ eighteen (18) months ~~before~~ prior to the general election held every four (4) years after the general election occurring in ~~1996~~ 2004. The Charter Review Committee shall review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. No member of the State Legislature, the Board of County Commissioners, any County Constitutional Officer, nor any elected officer of a municipality shall be a member of the Charter Review Committee. Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.