

**Charter Review Commission (CRC) SPECIAL Meeting Minutes
Wednesday, August 18, 2021**

1. Call to Order 4:03 pm

1a. Land Acknowledgment

1b. Pledge of Allegiance

2. Roll Call:

In Attendance: All CRC members in attendance except Anne Marie Shanks

Members of the Public: Kathryn Hansen, Megan McLean, Milene Henley

3. Approve Minutes from August 4 meeting: Minutes adopted.

4. Budget & Provisions Amendment (Bob O./Process Committee):

Bob O'Connell presented - gave a history of the process of this amendment, which is scheduled for the 2022 ballot. He sent a letter to every Commissioner with a copy of this proposed amendment. Discussed under "New Business" at the last meeting.

Three things added to the amendment were:

1. When the CRC's term actually ends
2. How ought the CRC go about filing its proposed amendments, and what ought the role of the legislative authority be in our process
3. What provisions ought to be made for legal representation of the CRC during a conflict of interest between the CRC and other county officers in which both groups are getting legal advice simultaneously from the same legal counsel. He wasn't thinking about lawsuits, but we may want to change a couple of words if we want to limit it to that. Then Bill Appel brought up the specter of a lawsuit between two segments of the government when one segment (the CRC due to expiration of time) was out of office.

Sharon shared Bob's document on the screen.

Bob read Section (2).

Kevin: Let's take each section individually.

Discussion, including:

- Maureen: Important to clarify CRC's procedures in the Charter - doing that this year cost us a lot of time. It will help the county understand the rules as well as future CRCs.
- David D: How do we determine "Successful motion of the CRC"?
- Kevin: Legally, by definition, that means a simple majority vote of the CRC.
- Paul requested inserting the word "majority"

- Bob is okay with "...upon a motion approved by a majority of the CRC"
- Tony: Supports the concept, but thinks it should be a supermajority (66%) - shouldn't be so easy to end the session.
- Bob has no problem with making it harder to end. Two-thirds of those present and voting?

Motion by Paul, seconded by Bob to change to two-thirds majority:

Tony: Wants supermajority, not just the ones present, in case we have several that decide to end discussion when others are not present. It should be as hard as possible to end it.

Vote: All in favor except 2 abstentions (Dick & Tony)

Motion carried.

Sharon made changes to the document.

Bob read and explained the rationale for Section (3).

Discussion, including.

- Bob: The CRC resolution accompanying the amendments is a formality but it's not required.
- Maureen: The resolution becomes a quick reference in the future – it's a succinct way of saying this is a product of our work. It's ceremonial, historical and valuable, even though it may not be absolutely necessary.
- Kevin: That aspect of things got past him with everything else going on. But we will do a resolution as a follow on when we finish our work that will encompass both years' ballot measures.
- Jane: How do we address the dilemma we got into about whether or not we can submit amendments over two ballots?
- Kevin: We could add a clarifying sentence to Section (2).
- Bob: It's already in our Charter there is a clear reference to anytime we offer an amendment to the Auditor it's taken up at the next election that is at least 90 days away. So it's totally taken care of already.
- Bill: Suggested ending Section (3) with "Registration of the proposed amendments with the Auditor". The CRC can send it to anyone it wants. Doesn't like saying that the legislative authority doesn't have any duties or responsibilities. It's a negative you want to keep out of a document like this because it could be misused. Wants more brevity.

Motion by Bill, seconded by Patty, to end Section (3) with "... proposed amendments with the Auditor."

Discussion about the language in Section (3) around what is and is not necessary, including:

- Kevin: Thinks those sentences are important, particularly the legislative authority sentence. We are technically filing with the SJCC who then sends it to the Auditor, but really what we're doing is sending it to the Auditor and the SJCC has no duties whatsoever regarding these amendments/propositions.
- David D: Agrees with Kevin and Bob about keeping these lines in. Agrees with Maureen about having a resolution. The word "may" is too wishy washy - will lead to a debate - just make it very clear one way or the other. Say "shall submit" and "shall pass a resolution" - will eliminate unnecessary discussion.
- Kevin: Agrees with David and Maureen with regard to the resolution – supports saying “The CRC shall pass a resolution to accompany the proposed amendments to the Auditor.” But he wouldn’t do that with the previous sentence. The legislative authority has no duties with regard to these amendments and so it should be at the discretion of the CRC, though the CRC would be wise to keep the SJCC up to speed during the process.
- Dick: Thinks it's critical that the CRC as independently elected officials that it's very clear that the ballot measures are transmitted directly to the Auditor.... But wants it to be clear that the CRC's responsibility is to submit to the Auditor – that's what matters.
- Dave A: Are we submitting to the SJCC in order to put it in the legislative record?
- Kevin: Filing it with the Auditor is when it becomes record.
- Bill: Motion began with the legislative authority language - they have an obligation with the pro and con statements.
- Sharon: In favor of keeping all the language in for the purpose of being really clear. Things may not seem as clear to a new CRC ten years from now.
- Milene: The last sentence is insulting to the SJCC. Makes sense to say the amendments should be submitted to the Auditor. That would not relieve the Legislative Authority from its duty to appoint argument writers. She likes the language "shall submit to the Auditor with a copy to the SJCC".
- Jane: Question for Milene - Confused by the SJCC's votes on our amendments. There was confusion about what the role of the SJCC was in receiving the amendments.
- Milene: The SJCC's only role was to turn the amendments over to the Auditor.
- Bob: Question for Milene - where is the SJCC's duty?
- Milene: It's in an RCW. It's difficult for them to do so given the timing of when things are due to the Auditor and to the printer for the Voter Pamphlet. This CRC? wasn't the first to miss that deadline.
- Maureen: Handing it over to the SJCC is a tradition, out of respect, and just good form that they get a copy the same day it goes to the Auditor. AND their role needs to be clarified.
- Dick: Why don't we just say "Shall submit it to the Auditor with a courtesy copy to the Council"?
- Kevin called the question.

Vote:

5 in favor (Patty, Tom, Paul, Kyle, & Bill), 9 opposed, 2 abstentions (Tony & Dick).

Motion failed.

Liz: She takes to heart that Milene said the current language is insulting to the SJCC.

Motion by Janet, seconded by Liz, to keep the 3rd to last sentence and delete the last two sentences, saying that it goes to the Auditor with a courtesy copy to the legislative body.

Discussion, including:

- David D: Doesn't agree with Janet's motion - this document is not to make the SJCC feel good - it's to convey info and set rules so the public understands that the legislative authority has no duties here. Last sentence - Maureen argued well for keeping it in to have a record that we have acted on this and sets it in the record for future CRCs and the public to access. Take out "may" pass a resolution - we need to create certainty in this document.
- Maureen thinks we need these last two sentences - take out "at its own discretion" and say "shall pass".

Friendly Amendment by Dick:

To add "The CRC *shall* also submit proposed amendment to the legislative authority for informational services." This makes it clear the SJCC has no authority and that it's only for informational purposes. We can delete the current sentence that says "shall have no duties" and change the final sentence to a "shall". Then we get rid of the problem of being insulting.

Janet and Liz accepted this Friendly Amendment.

Discussion, including:

- Bob: Does anyone think there was no problem when we turned the amendments over to the SJCC? He doesn't feel that way. Agrees with David D. We need for the SJCC to know what the rules are.
- Liz: We need our county government to be as non-contentious as possible in order to have an effective government. Wants us to have higher levels of community engagement and participation.
- Dick: The proposals would already have gone to the Auditor in his Friendly Amendment.
- Jane: It felt like an inquisition for her – it was an uncomfortable experience.
- David D proposed a Friendly Amendment to change "may" to "shall" in the 2nd sentence of Section (3).
- Janet rejected this Friendly Amendment.

Kevin: The motion we're voting on is this:

Section (3) up through "informational purposes" will stay the same. The next sentence would be removed. And the last sentence would read "The CRC shall pass a resolution to accompany the proposed amendments to the Auditor."

Vote on Janet's motion as amended:

12 in favor, 2 opposed (Maureen & Bob), 1 abstention (Liz)

Discussion, including:

Bob: We put the SJCC back in the business of mucking with our business.

Motion by David D. No second. Motion failed.

Bob presented on Section (4):

Discussion, including:

- Bob suggested deleting "and represent" in both places.
- Kyle: Whose job is it to police errant behaviors of branches of government at the County level?
- Bill: This can't be put in shorthand. The Prosecuting Attorney knows this law and if he wants to keep his license it's covered extensively in the Bar Assn. He recommends leaving this out.
- Bob: The point is that the CRC needs to know the law also. How many people were aware of this firewall?
- Kevin: Will get the references he has sent to Bob in the past. The ethics laws do not apply in the same way to government attorneys, and particularly Prosecuting Attorneys.
- Bill: Prosecuting Attorneys have somewhat different rules and different rules are applied in small towns. These things only rise to the court's attention when somebody complains to the Bar Assn. Suggests we make this a request to the Prosecuting Attorney to make sure the next CRC is advised on this. This is not a Charter issue in restating the law.
- Tony: This language would be good for a recommendation to the SJCC but not for an amendment.
- Bob: "The CRC may request ..." and "The decision to represent the CRC in this way shall lie with the Prosecuting Attorney". We cannot tell the PA what to do. This doesn't do that. This tells him we know of a way that this can be resolved and encourages the PA to do that.
- **Kevin: Let's get further clarification on the nature of the conflict of interest with representation that we experienced. He spoke with the MRSC and it is not clear. He will go back and ask them formally. Asked Bob and Bill to work with him on this in the next few days.**
- Bob: We're just saying this is an idea - it doesn't say they have to do anything.
- Bill: ... A simple statement in Section (4) is simply insufficient. This is not a simple area of ethics. We could hurt ourselves or the next CRC.
- Kevin: Doesn't disagree with Bill, but it's not clear through case law or anything else. We should go to the MSRC with this.
- Maureen: Anything obtained from MSRC goes directly to the PA – it's shared information. In this CRC in dealings with legal advice was that there was an unusual blending of personal opinion and legal opinion and it got problematic. There were too many changes. She's in favor of statements that help clarify the

roles, even if they're imperfect. Thinks what Bob has done is well written and is in favor of it.

Kevin: We won't get to recommendations today. Next week [actually on Sept. 1] we'll have another meeting and see if we can get some guidance on this for that meeting. **Wants Bob and Bill to submit some questions to the MSRC and will lead that conversation at our next meeting.**

Let's see if we can move on the first two items, where we had consensus. We took a vote on the second one as amended. Not asking for action on Section (4) based on the conversation we just had. But on Sections (2) and (3), we did take a vote on Section (3), but we had said we were going to take a vote to combine them and say we are moving these forward as amendments.

Sharon revised the language in Section (3) as was voted on.

Motion by Bill, seconded by Janet, to move Sections (2) & (3) here as amendments for the 2022 ballot, as written.

Discussion, including:

- Kevin: These may have separate ballot titles, but we're approving these tonight and hopefully Section (4) and the recommendations at our next meeting. The PA will tell us whether or not we can combine them.
- Kevin: To clarify: We're talking about two-thirds of all the members of the CRC, not just of those members present at a given meeting.
- Liz expressed concern that, if we add "full", that some members might not show up for that vote in order for it not to pass.
- Kevin: Even without the word "full", it reads the same way to him.
- Paul: "Full" is important to clarify.

Friendly Amendment by Dick, seconded by Paul, to add "full" CRC in Section (2).

Bill and Janet accepted this Friendly Amendment.

Sharon added the word "full" to Section (3).

Bob: Is voting "No" on this because of what he said earlier about Section (3) – disagrees with deleting the sentence that the majority of CRC members voted to delete.

Vote to move Sections (2) and (3) forward as amended:

8 in favor, 4 opposed (Bob, Maureen, Sharon, Liz), 2 abstentions (Tony & Kyle)

Motion carried.

5. Review and approve Recommendations - Postponed until next week's CRC meeting.

6. Next steps – No discussion.

7. Discuss future meetings – Didn't discuss except for next week's meeting.

8. New Business

Kevin - Update on Ballot Titles:

Kevin wrote a lengthy memo to the PA, who reviewed it thoroughly but decided to stick with its language. He raised some really good points in his answers to Kevin's email. Any individual can file a petition with the judge, but Kevin feels comfortable with the ballot titles we have.

Kevin - Explanatory Statements:

Unlike with the Ballot Titles, there is no ability to appeal this process to a judge. The PA has shared those statements before submitting them to the Auditor so he can get feedback. Hopefully he is going to do that. He's seen Randy do this dozens of times and he knows that Randy takes it very seriously and does it in as nonbiased a way as possible. In the past, we would have the opportunity to ask questions, and he hopes we will at this time as well.

Motion by Sharon, seconded by Bill, to adjourn.

Discussion, including:

Jane - Guidelines related to ballot measures in the Voters Pamphlet: We are as CRC members the sponsors of the propositions. We are allowed to have some comment on the Explanatory Statements, so she hopes we will have the opportunity to see them before they're submitted for the Auditor. That is standard thing.

9. Open for Public Comment - No public comments.

ADJOURNMENT: Adjourned at 6:15pm

Sharon Abreu
CRC Member

Minutes were approved by consensus at the September 15, 2021 Special Meeting