



November 15, 2019

Mr. Bobby R. Beagles
Executive Director
Orange County Farm Bureau
Post Office Box 1329
Christmas, FL 32709

Dear Mr. Beagles:

On behalf of Mayor Demings, I am responding to your October 9, 2019 letter regarding the Charter Review Commission's draft proposal to amend the County Charter to address the "rights of water." Thank you for communicating the concerns of the Orange County Farm Bureau.

At this time, the Board of County Commissioners (BCC) and County staff are monitoring the work of the Charter Review Commission ("CRC") committee working on the "rights of water" proposal and, as explained below, also maintain certain apprehensions regarding the proposed amendment. However, given the independent authority granted to the Charter Review Commission by the County Charter, the Mayor and BCC are not in a position to reject or approve the draft Charter amendment.

In Orange County, the CRC is separate and independent of the BCC. Proposed Charter amendments are not subject to the approval of the BCC prior to being slated on the ballot for a vote by the electorate. After the BCC appoints the members of the CRC, it has no further authority over the CRC to reject or approve proposed charter amendments. It is the CRC that is solely responsible for placing CRC Charter amendments on the general election ballot.

It is my understanding that the "rights of water" proposal is still under revision by the CRC committee. Once the Charter amendment language is finalized in committee, the proposal will be scheduled for consideration by the general CRC membership. A majority of the CRC members present will be required to approve the proposed Charter amendment before it can be included on the general election ballot.

As previously mentioned, County staff is also concerned about the committee's proposal. It is our intention to communicate those concerns to the committee and to the full CRC prior to the CRC voting on the proposal. Primarily, the County is uncomfortable with the proposed Charter amendment adding an additional layer of regulations to existing federal, state, and local laws. Such additional regulation may conflict with the regulatory and permitting programs of other agencies. These kinds of legal conflicts could very well increase the number of projects resulting in litigation.

Byron W. Brooks, A.I.C.P., County Administrator
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Further, while I am unable to list every troubling facet of the proposal in this letter, the following aspects of the proposal are also problematic for the County:

- The proposed amendment contains numerous subjective or undefined standards of measuring water pollution.
- The proposal does not clearly identify what conduct is prohibited or what the County's enforcement responsibilities would be.
- The County could be subjected to continuous litigation by citizens seeking to rectify conduct created by any number of private entities.
- The definition of "clean water" uses Florida's Numeric Nutrient Criteria as a benchmark, which has not been adopted by the County in its water quality ordinances.
- The proposal does not account for environmental changes occurring naturally over time.
- The restoration of certain waters to historical conditions, as required by the proposal, could result in changes in water level, flows, and quality that could adversely impact urbanized areas, agricultural areas, and natural ecosystems.

The County will continue to monitor the work of the committee and will provide additional, detailed feedback to the CRC as this issue progresses. I appreciate your participation in the Charter Review process.

Sincerely



Byron W. Brooks

BWB/kl

cc: Mayor Jerry L. Demings
Commissioner Betsy VanderLey, District 1
Commissioner Christine Moore, District 2
Commissioner Mayra Uribe, District 3
Commissioner Maribel Gomez Cordero, District 4
Commissioner Emily Bonilla, District 5
Commissioner Victoria P. Siplin, District 6
Jeffrey Newton, County Attorney
Kate Latorre, Assistant County Attorney
Roseann Harrington, Chief of Staff
Chris Testerman, Deputy County Administrator
Jon Weiss, Director, Planning, Environmental, and Development Services
Ray Hanson, Director, Utilities
David Jones, Manager, Environmental Protection
Camille Evans, Esquire, CRC Chairperson