

Libertarian Party of Brevard County - Special Business Meeting

Agenda

*This draft agenda is subject to approval by the voting membership.

Meeting to be held on 10/4/2022 at 6:30pm.

Cape Royal Professional Business Center

1980 N Atlantic Ave Second Floor, Cocoa Beach

Remote Participation: Facebook Live <https://www.facebook.com/LPBrevard>

*Online participants must declare in the comments that they wish to participate for the Secretary to record their attendance. Comments will be monitored for online participation. All other voting rules apply.

Sign in

Meet-and-Greet

1. Call to order
2. Officer Roll Call
 - Determination of quorum (75% of Executive Committee or 25% of all voting members)
3. Approval of Agenda
4. Old Business
 - Motion 2022-36 LP Brevard Position Recommendations on 2022 Brevard County Charter Amendments
See addendum 1
5. New Business
 - Motion 2022-37 Catering budget authorization for 2022 Golden Liberty Gala in the amount of \$3000.
See addendum 2
 - Motion 2022-38 LP Brevard Position Recommendations on 2022 Cocoa Beach Referendum
See addendum 3

- Motion 2022-39 LP Brevard Position Recommendations on 2022
Rockledge Referendum
See addendum 4

6. Adjournment

Addendum 1

2022 Brevard County Charter Amendments

Title: Recommend Positions on 2022 Cocoa Beach Referendum

Mover: Greg Peele

Motion: I move for LPBC to adopt the following recommendations for the City of Cocoa Beach on the November 2022 ballot:

- No on Proposition 1
- No on Proposition 2

Review and Rationale

Brevard Proposition 1

Summary: Amends the process for amending the charter so that the currently mandatory review of three attorneys is binding and if at least two attorneys find that the charter amendment is inconsistent with state constitution or law, the amendment is automatically rejected and if appropriate returned to the BOCC or CRC for reconsideration.

Case in Favor: The attorney review for is already mandatory per the charter, and the county taxpayers are already incurring the expense of paying them. The current charter specifies that if the attorneys approve an amendment from the BOCC or CRC, it must be placed on the ballot. However, nothing specifies what happens if they reject the proposed amendment, and the county commission can (and in this election did in multiple cases) approve an amendment that the attorneys found to be unlawful. The proposal establishes that the review process is binding on the county. Note that the review process is already binding on public citizen initiatives via Brevard County Charter 7.3.2.3, albeit in a poorly worded way; public initiatives cannot go to the next phase unless $\frac{2}{3}$ of the attorneys approve them.

Case Against: The final authority on amending the county charter should remain with the public and their elected representatives on the county commission. While

there is a case that the CRC should be able to bypass the commission entirely similarly to the state CRC, that is the subject of Proposition 4 rather than this amendment. Attorneys are not always correct, often tend to be excessively conservative about the risk of preemption of state law, and tend to have biases in favor of state power and the power of the ruling party due to the influence of the Florida Bar. While their opinion should be carefully considered and probably should be included on the ballot measure, unelected consultants should not be able to veto the legislative process, especially for amendments originating from the CRC. That the attorney review can block public initiative is an argument to amend the charter to amend 7.3.2.4.2 to make the attorney review advisory rather than binding, and to allow petitioners to continue regardless. Let the voters be the final judge.

Recommendation: Vote No.

Acknowledging that this is a complicated amendment and that that voting yes would make the process fairer in that the government would be subject to the same rules as the public, but also believing that we should bias questions of home rule in favor of the public and their elected representatives and not unaccountable consultants with ties outside of the county and to state power. The principled position is to advocate rescinding the existing mandatory attorney approval for public initiatives, not strengthening it to apply to more cases. While the attorney review is useful and should be on the ballot measure, it should be up to the county commission and/or the voters to make the final call.

Brevard Proposition 2

Summary: Make charter amendments require 60% of votes cast rather than a simple majority.

Case In Favor: The Brevard County Charter is the fundamental contract between the government of Brevard County and its residents and businesses. Changing the existing contract that people already agreed to should only occur when absolutely necessary, and establishing a supermajority threshold to do so safeguards the existing residents against abusive changes due to transient fads.

Case Against: Making it harder to amend the Brevard County Charter is a double-edged sword that also makes it harder for Brevard residents to alter or abolish negative aspects of their local government, noting that much of the process of county government is preempted by state law in any case. There is also evidence at the state level that there is relatively little difference between a supermajority and majority threshold; amendments tend to either fail with less than 50% or succeed with more than 65% with very few falling in between. Finally, per the attorney review of the amendment, they believe that the Florida Constitution mandates simple majority for county charter amendments as found in *Citizens for Term Limits & Accountability Inc v Lyons* in which a similar amendment in Clay County was found unconstitutional and took no effect despite being approved by 80% of that county's voters. Reading the reasoning of the case, they argue that the definition of "will of the electors" in Florida Constitution Article X Section 12(d) requires a simple majority and that same phrasing is used in Florida Constitution Article VIII Section 1(c) to describe the requirements for county charter amendment process. Although, we note that the petitioner unsuccessfully appealed the ruling on the grounds that municipal charters do expressly have the power to set a supermajority threshold and for most intents and purposes the home rule provisions for charter counties are intended to match municipalities.

Recommendation: Vote No.

There is a substantial debate on whether the ability to directly amend charters and constitutions leads to more or less individual liberty. However, we note that in Florida, unlike the state and federal constitution, county charters cannot legally guarantee individual rights and only prescribe policies and procedures within the boundaries set by the state. The county government - and the Florida state legislature - have sought to make amendments more difficult to protect existing government power. Approving this measure, if upheld, would make it more difficult for LPBC or other pro-liberty organizations to sponsor amendments to limit the county government while also making it more difficult for anti-liberty organizations to sponsor amendments to strengthen the county government. Ultimately, given that ambiguity plus the near-100% likelihood that this

amendment would be found unconstitutional by courts and cost county taxpayer funds to defend in court lead to a recommendation to vote no.

Brevard Proposition 4

Summary: Changes the attorney review of amendments such that the attorneys are selected by the body (BOCC or CRC) that originated the amendment, having the effect of the attorneys for CRC amendments are selected by the CRC and attorneys for the BOCC amendments are selected by the BOCC.

Case In Favor: The current process allows the BOCC to select attorneys that review the CRC amendments, undercutting the whole point of a separate CRC with a review gate. This would allow the county to justify denying any CRC-originated amendments using their own handpicked attorneys. The review process should not be used to deny the whole point of the CRC's existence.

Case Against: This amendment is extremely complicated, and interacts poorly with Proposition 1 if that also passes. While the intent seems to be that the attorney review rejecting an amendment should go back to the originating board (CRC or BOCC), the attorney review noted that an ambiguity of wording could be interpreted to mean it always goes back to the CRC even if the amendment originated from the BOCC. While this could be seen as a power grab by the CRC, this is mitigated by the fact that the CRC itself is appointed by the BOCC and only meets once every six years rendering all the gymnastics for independence somewhat moot. Finally, this motion also has all of the same drawbacks as Proposition 1.

Recommendation: Vote No.

Assuming we adopt the recommendation to vote no on Proposition 1, it would be philosophically inconsistent to vote yes on Proposition 4 given that it has the same problems. Furthermore, since the CRC is appointed by the BOCC, any independence is theoretical at best and this highly complicates the charter amendment process for no practical gain.

Brevard Proposition 5

Summary: Rescinds the current charter process allowing vacancies to be filled by governor appointment if no less than 1 year is left in the term, effectively realigning the county with state law that instructs the governor to appoint to fill vacancies if no more than 28 months is left the term, or to fill a vacancy until the next regular November election otherwise.

Case In Favor: The current county charter specifies that the governor shall appoint if no more than 1 year is left in the term, otherwise the county shall conduct a special election. This language is inconsistent with state law and it is very unclear what happens if the governor makes an appointment between 28 months and 10 months before the term ends. Rescinding this language removes this uncertainty and aligns the county with state law.

Case Against: Allowing the governor to appoint for terms with 28 months remaining results in a situation in which the Brevard voters are represented by someone they didn't elect for a majority of that person's term, resulting in less representative and accountable government. Carefully reading Florida Statute 114.04 suggests a middle ground - the governor may make an appointment to fill the vacancy if no more than 28 months remain in the term regardless of what county charter says; however, if the county successfully completes a special election prior to the governor making an appointment, then the position is no longer vacant and no such appointment would be valid after that point. We note that one item of frustration to Brevard County Commission that Governor DeSantis chose not to appoint to fill the vacancy in District 2 created by the resignation of Commissioner Lober, and there is nothing compelling him to do so but it is within 1 year of the regular election so no special election may be conducted either; this leaves District 2 residents without any representation at all.

Recommendation: Vote No.

After careful review, we do not believe the county charter conflicts with state law after all, so long as the county recognizes that the governor may make

appointments if no more than 28 months remain in the term regardless of what county charter says, and it may be a legal question in court if the county finishes a special election and then the governor makes what would have otherwise been a valid appointment. The current language was previously passed and presumptively found constitutional, and we believe that the charter providing for a special election is not prohibited anywhere by law, which would mean the position would no longer be vacant after the special election completes. However, the governor would be able to make an appointment in between a special election being announced and completed, which would necessarily cancel the special election. We believe the existing language provides options more representative of the will of the Brevard voters and should not be changed in this way, acknowledging that the worst case scenario is the governor may make appointments per the state laws regardless.

Brevard Proposition 6

Summary: Creates permanent trust fund for the county that is funded by net profit from sale of county property plus any other revenue that the BOCC decides to approve, to be used exclusively for the purposes of affordable housing in Brevard; any investment revenue from the cash in the fund must be reinvested in the fund.

Case In Favor: This motion attempts to provide for alternate funding methods to address affordable housing - a legitimate issue in Brevard - without necessarily involving direct taxation. In particular, it is structured to incentivize selling county property and using the proceeds for the benefit of the public, which itself is a tactically-libertarian approach since it results in property being privatized and funding being generated without taxation. If it were indeed funded this way, it would be a better approach than the current wasteful spending of taxpayer funds and state and federal grants.

Case Against: This proposed fund permanently encumbers funds into affordable housing programs (or sitting around unused for reinvestment) but does not define what affordable housing is or prescribe any boundaries or guidelines on how it will actually be used to help affordable housing, so the BOCC could use it for literally

almost anything as long as they call it “affordable housing.” Furthermore, the clause allowing the BOCC to define alternative funding sources without any constraints effectively destroys the intended use case of funding it by privatization of county property. This does not provide any new capabilities that the BOCC itself cannot already do today, and the BOCC would still decide how to spend these funds and no doubt will do so as uselessly and wastefully as they already do with unencumbered general funds.

Recommendation: Vote No.

While the concept has promise and we could plausibly support a reworked version that tightened up the constraints, the clause allowing the county to fund it in other ways allows for them to use general funds collected by property taxes or seek out state and federal grants as a way to bypass the intent of selling county property, and the lack of definition of what the funding can be used for means the county will just label everything they want “affordable housing.” This basically ensures that this proposed trust fund will just be another excuse to raise our taxes and become a slush fund to further fund cronyism and corruption in Brevard County. It does not even begin to address the root causes of rising housing costs in Brevard which largely trace back to the state and local government planning, zoning, code, and other restrictions and regulations plus the overarching inflationary economic environment thanks to the Federal Reserve and out-of-control federal spending and massive inflow of new residents into Brevard from other states driving up demand on a limited supply.

Brevard Public Schools 1 Mill Property Tax Increase

Summary: Increase property tax millage by 1 mill for Brevard County Public Schools, stated to be for increasing teacher and support staff compensation and supporting student programs.

Case in Favor: There is no Libertarian case in favor of this ballot question.

Case Against: Taxation is theft, and the Florida Board of Education should be abolished. While this cannot be done without a state-level constitutional

amendment, we cannot justify taking more funds from Brevard residents already struggling with inflation and affordability of housing to support government education. Philosophy aside, the 2023 school budget increased by 16% from 2022 to \$1,497,724,807, leading to a per-student cost of roughly \$20k per student. Note that this is not how the actual school board reports these numbers, because they do not include indirect costs, but this is exceptionally high relative to the Brevard County average private school tuition of \$7,912 per student (even the official Brevard Public Schools number of \$8k per student is higher than average private school tuition). Brevard Public Schools do not have a revenue problem, they have an excessive spending problem. If teachers are not being properly compensated, this raises questions of where exactly all of the existing funding is going. This is especially offensive in light of the Brevard School Board instituting COVID policies that a substantial portion of the county opposed, and two incumbents who approved the tax increase losing reelection because of it. The same measure would likely fail if proposed on the new Brevard School Board.

Recommendation: Vote No.

\$50m EEL Tax Bond

Case In Favor: There is no Libertarian case in favor of this ballot question.

Case Against: Taxation is theft, and debt secured by future taxation with interest is even worse. Furthermore, the use of taxpayer funds to buy land has a further impact on county tax structure as it incurs a maintenance obligation on the county while removing these lands from property tax revenue pool. Commissioner Tobia, in his dissent on the 3-1 vote to approve this ballot measure, presented a compelling case on why this measure is wasteful and makes no sense to renew yet again. Finally, neither the state nor county government has shown any reliability at environmental conservation. The Brevard government has done poorly with preserving the Indian River Lagoon, while neighboring Orange and Osceola governments betrayed their environmental conservation commitments with the Split Oaks Forest preserve. We oppose further centralizing land ownership in the

government and call for environmentally-conscious residents, businesses, and not-for-profit charitable organizations to lead the charge on environmental conservation instead.

Recommendation: Vote No.

Addendum 2

Catering Budget for 2022 Golden Liberty Gala

Title: \$3000 Catering Budget for 2022 Golden Liberty Gala

Mover: Mari Peele on behalf of Gala Committee

Motion: “I move to authorize a catering budget of up to \$3000 for the 2022 Golden Liberty Gala.”

Rationale:

Since we are actively advertising for the Gala we expect that our guest count will be evolving. The requested amount would serve a total of 100 guests (including fees and taxes) for food and bar setup. This budget would allow us to cover our current guests with a buffer for tickets sold in the upcoming weeks. If the response is high enough we would still have the Oct 17th meeting for adjustments.

This budget is intended to cover the full estimated amount so that there would not need to be separate deposit and remainder motions.

Key Dates:

Initial deposit and menu are due asap.

The next Regular Business Meeting will be Oct 17t.

Final guest county and final payment are due Tuesday Oct. 25th by 4pm.

Addendum 3

2022 Cocoa Beach Referendum

Title: Recommend Position on 2022 Cocoa Beach Referendum

Mover: Greg Peele

Motion: I move for LPBC to adopt the recommendation of voting Yes on Question 1 and Question 2 the November 2022 Cocoa Beach ballot referendum to reduce supermajority requirements for amending the city comprehensive plan and disposing of city property.

Question 1 Ballot Text:

Cocoa Beach City Charter Amendment Revising Comprehensive Plan Approval Requirements

Shall the City Charter be amended to revise, from all five commissioners to four commissioners, the number of affirmative commissioner votes necessary to approve Cocoa Beach Comprehensive Plan amendments increasing permissible building and structure height or allowable development density and intensity?

Case in Favor:

This makes it easier for the city government to amend zoning, code, and height restrictions to be more reflective of the will of the public and changing economic conditions. It is highly unusual to require unanimous votes for anything, and the 4 out of 5 supermajority (effectively the same as $\frac{2}{3}$ on a five person board) matches most similar votes in other jurisdictions.

Case Against:

Presumably the concern is that people are against allowing increases in building height or density to keep Cocoa Beach's character and prevent overdevelopment, and requiring a unanimous vote is intended to prevent substantive changes without overwhelming support.

Recommendation: Vote Yes.

Ultimately this makes it easier to amend or rescind regulations and make the city council more reflective of the will of the voters. Nobody's rights are infringed by this change.

Question 2 Ballot Text:

Cocoa Beach City Charter Amendment Revising Approval Requirements for City Real Property Transfers

Shall the City Charter be amended to revise, from all five commissioners to four commissioners, the number of affirmative commissioner votes necessary to approve the transfer or relinquishment of any interest in real property in which the city has a legal interest?

Case in Favor:

This makes it easier for the city government to sell or otherwise dispose of city property, possibly making it easier to privatize government property. It is highly unusual to require unanimous votes for anything, and even a $\frac{4}{5}$ supermajority is a higher threshold than most votes.

Case Against:

Not sure what the case against would be.

Recommendation: Vote Yes

The city should be able to sell, transfer, or dispose of property it no longer needs. Even a $\frac{4}{5}$ supermajority is probably higher than it should be. We are in favor of anything that leads to more property being owned or managed by the private sector in a free market.

Addendum 4

2022 Rockledge Referendum

Title: Recommend Position on 2022 Rockledge Referendum

Mover: Greg Peele

Motion: I move for LPBC to adopt the recommendation of voting No on the November 2022 Rockledge ballot referendum to allow tax abatement authority.

Ballot Text:

Economic Development Ad Valorem Tax Exemption

Shall the City Council of the City of Rockledge, Florida be authorized to grant, pursuant to s.3, Art. VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses that are expected to create new, full-time jobs in the City of Rockledge?

Case in Favor:

Some Libertarians advocate in favor of all possible tax exemptions and tax breaks regardless of other considerations, since taxation is theft and reducing theft is its own greater good. This position would argue that even if the tax abatement is unfair, allow it and then work to broaden it to apply to more properties and businesses rather than taxing everyone equally at the current rates.

Case Against:

Tax abatements at the discretion of the city council represent the city actively interfering in the free market to pick winners and losers through a socialized central economic planning model. This approach incentivizes corruption and lobbying at the expense of rule of law, with well-connected businesses and businesses who can afford good lobbyists likely to receive the abatement at the expense of existing businesses who already operate in Rockledge and those unwilling to play the lobbying game. There is little evidence that these tax

abatements actually improve the economic health of the city, and mostly just shift the tax burden around since the city by no means will reduce spending to compensate for the lower tax revenue. It is more often a path toward crony corporatism than anything else.

Recommendation: Vote No.

While tax abatements are a hotly debated topic among Libertarians, I believe that the free market and equality under the law are more important principles than reducing taxation without reducing spending. I'm genuinely surprised Rockledge does not already claim this authority since most other cities and counties already do. If we want to get money out of politics, we must first get politics out of money. When the city council can decide who gets special favors for buying and selling, they will be the first to be bought and sold.