

# 2021 Charter Review Commission – the road ahead

Presented by Randall K. Gaylord  
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# BASIC CHARTER AND FIVE AMENDMENTS

Basic Charter – Adopted 2006

1<sup>st</sup> Amendment (3 to 6 Council Members; voting by district) 2006

2<sup>nd</sup> Amendment (6 to 3 members; whole island “residency district” for qualification and county-wide election) 2012

3<sup>rd</sup> Amendment (removed independence of administrator, county council has executive duties, must hire county manager) 2012

4<sup>th</sup> Amendment (Open Meetings for sub-committees of the Council) 2012

5<sup>th</sup> Amendment (Biennial Budget) 2019

# San Juan County Home Rule Charter

## ARTICLES

1. Powers of the County
2. The County Council
3. Other Elected Officials
4. Administrative Departments
5. Elections
6. The Public Interest
7. Financial Administration
8. Personnel System
9. Charter Review
10. General Provisions

## Section 9.11 – CRC Duties – Determine Adequacy and Suitability – Propose Amendments

The CRC ***shall*** review the Charter to 1) determine its adequacy and suitability to the needs of the County and 2) ***may*** propose amendments. The CRC ***may also*** make recommendations to the County Council and publish its findings.

# Section 9.20 – CRC Election Procedures and Period of Office

(e) The term of office shall be the shorter of one (1) year or when final recommendations are submitted to the Legislative Body [County Council] for referral to the voters.

# CHARTER AMENDMENT PROCESS

# Section 9.30 – Charter Amendment – General Provisions

Charter amendments may be proposed by the CRC, the County Council or by the public.

# Section 9.31 – Charter Amendment – Procedures – 4 Steps Regardless of Origin

(1) Any proposed Charter amendment shall be filed and registered with the County Auditor and submitted to the voters at the next November general election occurring at least ninety (90) days after registration of the proposed amendment with the County Auditor.

(2) In submitting any amendment of the Charter to the voters, any alternate article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to others. An amendment which embraces a single or inter-related subject may be submitted as a single proposition even though it is composed of changes to one or more Articles.

(3) If a proposed amendment is approved by a majority of the voters voting on the issues, it shall be effective ten (10) days after the results of the election are certified, unless a later date is specified in the petition or ordinance proposing the amendment.

(4) Any implementing ordinance required by any Charter amendment shall be enacted by the County Council within one hundred and eighty (180) days after the amendment is effective, unless the amendment provides otherwise.



# Section 9.32 – Amendments by the Charter Review Commission

The CRC may propose amendments to the Charter by filing such proposed amendments with the County Council who shall submit the amendment to the voters at the next November general election at least ninety (90) days after the filing and registration of the amendments.

# The PRODUCTS of the CRC

Determination of Suitability

Optional – Make recommendations and findings

Expressed in Written Findings and Minority Report

# Proposed Amendments

- Show in underline [new] and ~~strike-out~~ [omitted] format
- One subject in each amendment
- Generally, one article per amendment; exceptions
- Attorney will assist in one subject per amendment
- Past practice: One Commissioner assumes duty of document control
- Recommendation: Make all amendments to Charter; then break into propositions later

# Time of Submitting Amendments

- Your work must be completed before term expires on December 31
- You can submit amendments in two installments
- For election in November **2021**, deadline about **June 30** to County Council; **July 27** is action deadline for County Council
- For election in November **2022**, deadlines is December 2021

# The Election – Proposition(s)

- On the general election (November) ballot
- Majority of those voting county-wide needed for adoption
- County Funds cannot be used to support or oppose the propositions
- Current and former commissioners can speak in favor or against
- Auditor will solicit pro and con statements for voter pamphlet
- Prosecutor will prepare ballot title and neutral statement for voter pamphlet

# LIMITS TO CHARTER CONTENT THAT DIFFERS FROM STATE LAW

Thus, the "home rule" charter is to be subject to all provisions of the state constitution relating to counties, except those explicitly mentioned in Article XI, § 4 itself

**Attorney General Opinion 1980 No. 9**

**In other words, a County Charter addresses "form" and "structure"**



# Article XI, Section 4 Washington Constitution

After the adoption of such charter, such county shall continue to have all the rights, powers, privileges and benefits then possessed or thereafter conferred by general law. All the powers, authority and duties granted to and imposed on county officers by general law, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court and the justices of the peace, shall be vested in the legislative authority of the county unless expressly vested in specific officers by the charter. The legislative authority may by resolution delegate any of its executive or administrative powers, authority or duties not expressly vested in specific officers by the charter, to any county officer or officers or county employee or employees.

# What is “mentioned” in Article 11 Section 4?

“The provisions of sections 5, 6, 7, and the first sentence of section 8 of this Article as amended shall not apply to counties in which the government has been established by charter adopted under the provisions hereof. . . .”

# Article 11, Section 5 –[Officers, Term of office, election, salaries] – Does not limit CRC

The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties, and fix their terms of office: Provided, That the legislature may, by general laws, classify the counties by population and provide for the election in certain classes of counties certain officers who shall exercise the powers and perform the duties of two or more officers. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population: Provided, That it may delegate to the legislative authority of the counties the right to prescribe the salaries of its own members and the salaries of other county officers. And it shall provide for the strict accountability of such officers for all fees which may be collected by them and for all public moneys which may be paid to them, or officially come into their possession

# Article 11, Section 6 – Vacancies – Not a limit

“The board of county commissioners in each county shall fill all vacancies occurring in any township, precinct or road district office of such county by appointment, and officers thus appointed shall hold office till the next general election, and until their successors are elected and qualified.”

Article 11, Section 7 – Term  
Limits – Repealed – Does not  
apply

# Article 11, Section 8 first sentence - Does not apply to CRC

“The salary of any county, city, town, or municipal officers shall not be increased except as provided in section 1 of Article XXX or diminished after his election, or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.”

# Exception: Topics of “purely local concern”

## AGO 2012 No. 6

Some courts have suggested that a state statute may not control over a county charter in areas of “purely local” concern. For example, in *Henry v. Thorne*, 92 Wn.2d 878, 602 P.2d 354 (1979), the Court upheld a charter county’s rules regarding the timing of elections to fill vacancies of county officers despite the fact that those rules differed from state statute. The Court reasoned that article XI, section 4 intended to allow charter counties the right to govern their purely local affairs without supervision from the state, so long as the counties did not run counter to “considerations of public policy of broad concern, expressed in general laws.” *Id.* at 881 (quoting *State ex rel. Carroll v. King Cnty.*, 78 Wn.2d 452, 457-58, 474 P.2d 877 (1970)). In upholding the county charter’s rules, the Court concluded that “[t]here appears to be no sound reason why the State should have an interest in the timing of elections to fill vacancies in offices that concern only the residents of a county.” *Id.*; see also *Snohomish Cnty. v. Anderson*, 123 Wn.2d 151, 158-59, 868 P.2d 116 (1994) (describing the decision in *Henry v. Thorne* as involving issues of “purely local” concern).

# Working with the County Attorneys

Randall Gaylord and Amy Vira



# General Guidance

- BEST to DISCUSS LEGAL QUESTIONS IN PUBLIC SESSION
- LIMIT CALLS SO THAT ALL COMMISSIONERS KNOW Q AND A
- USE EMAIL TO SEND QUESTIONS TO BE ANSWERED AT MEETING
- OBTAIN SUPPORT FROM OTHERS FOR MORE INVOLVED LEGAL QUESTIONS TO BE ANSWERED BY THE ATTORNEY (REDUCE SINGLE PERSON ISSUES)
- ASK FOR THE ATTORNEY'S HELP IN FRAMING THE QUESTION
- IDENTIFY ONE "POINT PERSON" TO WORK WITH THE COUNTY ATTORNEY

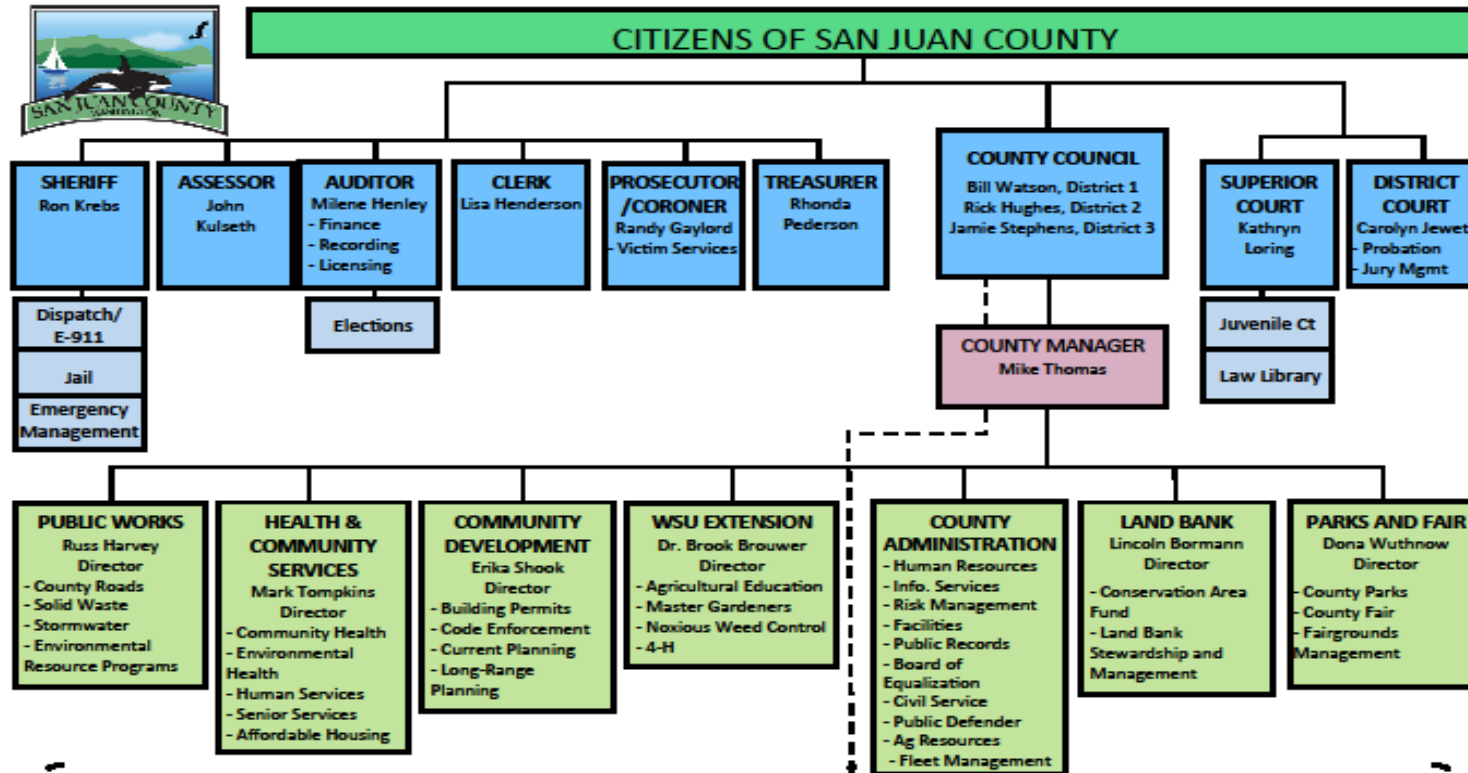
# MISCELLANEOUS

- Responsibility for good behavior and compliance with laws
- Prompt notice of claims; no admissions
- Reimbursement of expenses – claim forms; timely submittal

# RESOURCES

- Historical Records of the Freeholders and First CRC – Find at MS Teams
- Your Prosecuting Attorney, and past and current elected officials
- MRSC.ORG – Washington State Advice; Blogs, Reports, other Charters
- Washington Constitution, Especially Article XI, Section 4
- Attorney General Opinions
- Case Law, especially ***Carlson et al v. San Juan County***
- The County Website and Budget Book (Text)
- Washington Association of County Officials (WACO)
- Washington State Association of Counties (WSAC)
- National Association of Counties (NACO)
- “Unbundled Executive” and “Plural Executive” Systems of Government

# COUNTY ORG. CHART AND QUESTIONS?



## APPOINTED BOARDS, COMMITTEES AND COMMISSIONS

Agricultural Resources Committee \* Board of Equalization \* Board of Health \* Building Advisory Council \* Citizens Salary Commission \* Civil Service Commission \* Clean Water Advisory Committee \* Deer Harbor Plan Review Committee \* Eastsound Design Review Subcommittee \* Eastsound Planning Review Committee \* Fair Board \* Ferry Advisory Committee \* Housing Advisory Committee \* Human Services Advisory Board \* Land Bank Commission \* Lodging Tax Advisory Committee \* Lopez Village Planning Review Committee \* Marine Resource Committee \* Noxious Weed Control Board \* Open Space