



2020 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

January 13, 2020

Committee Recommendation

Ethics Concerning Lobbyists Committee

Committee Members:

Lee Steinhauer, Chair
Camille Evans
Matthew Klein
Jeffrey A. Miller
Samuel Vilchez Santiago

Background

On July 10, 2019, the 2020 Charter Review Commission (the “CRC”) initially considered whether to establish as an evaluation topic the establishment of ethics rules concerning the appointment of lobbyists to advisory boards and commissions established by the Orange County Board of County Commissioners (the “Commission”). The CRC voted to table the issue.

On August 7, 2019, the CRC renewed its consideration of whether to establish as an evaluation topic whether there should be ethics rules concerning the appointment of lobbyists to advisory boards and commissions. The CRC received a proposal from Member Eugene Stoccardo in favor of establishing an evaluation topic and a memorandum from General Counsel concerning current and forthcoming restrictions on lobbyists under state law and the Orange County Code. The CRC voted 7 to 4 in favor of establishing Ethics for Appointing Lobbyists to Advisory Boards and Commissions as an evaluation topic. The CRC also voted 10 to 1 in favor of creating a separate committee to explore the topic and report its findings back to the CRC.

Summary of Recommendation

Beginning on August 22, 2019, the Ethics Concerning Lobbyists Committee (the “Committee”) held six public meetings to hear public input and consider proposals regarding ethics rules restricting registered lobbyists from serving on advisory boards or commissions. Additionally, on October 2, 2019, with the approval of the CRC, the scope of the Committee’s area of inquiry expanded to include consideration of whether a separate Ethics Commission should be established in Orange County. The Committee considered and analyzed the current Orange County Ethics Code, which provides for the creations of an Ethics Advisory Board by the Commission by resolution, as well as current Orange County restrictions concerning lobbyists, state ethics regulations and restrictions on lobbyists, and the ethics codes of a number of other jurisdictions. The Committee also reviewed public records showing registered lobbyists who have been appointed to serve on advisory boards from the years 2009-2019, as well as reports, recommendations and ordinances resulting from the Orange County Ethics Task Force in the years 2007-2010, which led to the establishment of the

current Orange County Ethics Code and a code provision for the establishment of an Ethics Advisory Board by the Commission by resolution. The Committee further heard from the Orange County Comptroller's Director of Audit, Chris Dawkins, regarding the role of the Comptroller under the Orange County Charter and from Assistant County Attorney Kate Latorre concerning annual ethics training provided to advisory board members by the Orange County Attorney's Office and the number of ethics complaints filed in Orange County. The Committee also heard from members of the public as to their respective concerns and proposals relating to registered lobbyists serving on advisory boards and the possible creation of an independent ethics commission with investigation and enforcement authority.

After careful consideration of the information presented, the Committee voted 4 to 1 to recommend to the full CRC that no amendment to the Orange County Charter be made with respect to the Committee's evaluation topic.

Although some members of the public expressed concerns regarding registered lobbyists serving on advisory boards and commissions, and some members of the public were in favor of the creation of an independent ethics commission, the information reviewed by the Committee fails to establish a need for a prohibition on registered lobbyists from serving on advisory boards or commissions, or for the creation of an independent ethic commission, separate from the Ethics Advisory Board option currently available by resolution under the Orange County Ethics Code, to investigate and enforce the Orange County Ethics Code. The information reviewed by the Committee reflects that no ethics complaints have been filed in the past several years, only a minimal number of registered lobbyists have served on advisory boards or commissions since 2009, all without any indication that such service was related to their private lobbying activities, and Orange County currently has a robust Ethics Code. Accordingly, the Committee recommends that no amendments to the Orange County Charter be made with respect to the Committee's evaluation topic.

Reasons for Recommendation

1. Orange County has an Ethics Code.

As a result of an Orange County Ethics Task Force established by the Commission in the years 2007-2010, which spent considerable time and effort analyzing the issue, the current Ethics Code was created. The current Ethics Code establishes standards of conduct, procedures and due process for handling ethics complaints. In addition, the Ethics Code provides that the Commission may establish by resolution an Ethics Advisory Board at any time.

2. Florida Law and the Orange County Charter Regulate Lobbying.

The Committee reviewed memorandums prepared by General Counsel detailing the substantial regulation of lobbyists that currently exist under Florida Law and the Orange County Charter. Thus, new regulations or prohibitions on lobbyists serving on advisory boards or commissions may be duplicative or conflict with such laws.

3. No Substantial Evidence of a Problem.

No ethics complaints have been filed in recent years. No information was provided to the Committee indicating that any of the very few registered lobbyists who have volunteered to serve on advisory boards or commissions since 2009 did so inappropriately or at the behest of their principals. Furthermore, existing laws and regulations appear to cover any such inappropriate conduct. Prohibiting Orange County citizens from serving on advisory boards or commissions simply because they are employed as a lobbyist may have a chilling effect on those few citizens who are willing to serve in the future.

Arguments Against Recommendation

1. Conflicts of Interests and Public Perception of Lobbyists.

Some members of the public expressed concerns that without a prohibition on lobbyists serving on advisory boards or commissions there will be inherent conflicts of interests in our government. The public perception of lobbyists is that they serve the interests of their principal. In order to avoid that perception and the appearance of impropriety, lobbyists should be prohibited from serving on advisory boards and commissions in Orange County.

2. Other Jurisdictions Regulate Lobbyists and Have Strong Ethics Commissions.

Some of the largest counties in Florida have supplemental regulations for lobbyists and strong Ethics Commissions with investigative and enforcement powers. As Orange County is one of the fastest growing counties in Florida, it too should have supplemental regulations for lobbyists and a strong Ethics Commission.

3. Public Perception Indicates there is a Problem in Orange County.

Some members of the public expressed the view that despite the fact no ethics complaints have been recently filed in Orange County under the Orange County Ethics Code, there are real ethical problems in Orange County which are not adequately addressed by the current code.

Committee Recommendation

After careful consideration of the information presented, Member Chair Evans made a motion that the Committee recommend no amendments to the Orange County Charter be made with respect to the Ethics Concerning Lobbyists Evaluation Topic. The motion was seconded by Member Miller. The Committee voted 4 to 1 in favor of the motion. Member Miller also made a motion that the Committee recommend no amendments to the Orange County Charter be made with respect to the creation of an Ethics Commission separate from the Ethics Advisory Board that currently is provided

for under the Ethics Code. The motion was seconded by Member Steinhauer. The Committee voted 5 to 0 in favor of the motion.

Accordingly, having carefully considered the comments and proposals of the public, the comments and information provided by invited guests, the memorandums and information provided by General Counsel, the reports provided by staff, and otherwise being fully advised in the premises, **the Committee recommends that no amendments to the Orange County Charter be made with respect to ethics concerning lobbyist or with respect to the creation of an Ethics Commission.**