



July 8, 2010

Mr. Mitchell M. Thrower, III, Chairman
Charter Review Board of Hillsborough County
C/O Edith Stewart, Public Affairs Administrator
County Center, 26th Floor
601 East Kennedy Blvd.
Tampa, FL 33602

Dear Chairman Thrower:

Today I read the email conversations between Sam McCall, Auditor for the City of Tallahassee and Mitch Thrower, Chair of the Charter Review Board, relating to proposed charter changes for the performance auditor position.

On April 30, 2010, I spoke before the Review Board and explained that I was an original proponent of a budget analyst hired by and responsible to the County Commission. The creation of the performance auditor was not a priority of mine, but that of a citizen activist named Ralph Hughes. My attention was directed to establishing a position for a budget analyst, responsible only to the BOCC. My experience as a County Commissioner made me acutely aware of the need to have information that was not filtered by the administrator. Since the time that this amendment to the charter was adopted by the public, I have altered my position. I am still strongly in favor of a budget analyst, but oppose the continuation of the performance auditor. Consequently on April 30, 2010, I recommended to the Charter Review Board that the charter be revised and the performance auditor be deleted from the charter.

In the course of my presentation, I was asked by committee members if I could undertake the duty of performance auditor. My response was that my staff is qualified to conduct performance audits and the BOCC presently has an agreement with my office to conduct several such audits. If the BOCC chooses to use our office for that purpose, I would accommodate them, provided that the BOCC would furnish funds for subject matter experts as needed. With that condition, I agreed to assist the Commission. I did not solicit this work. I was attempting to resolve the need that the Board had to get the required work completed.

Following the public criticism of the former performance auditor, James Barnes, Mr. Tarr, an external auditor, was hired by the BOCC to review the performance auditor's role and duties. He appeared before both the Charter Review Board and the BOCC and suggested guidelines for the hiring of a BOCC auditor; the responsibilities which he/she should have; and the qualifications necessary for the job. He additionally recommended creating an advisory board and changing the title of the performance auditor to internal auditor.

I agree with most of the recommendations which Mr. McCall and Mr. Tarr have made, except for:

1. The creation of an advisory board. This would result in another layer of government with individuals serving who could attempt to satisfy their own personal agenda. Current economic pressure is moving the public to support condensing government and merging responsibilities, not expanding. You should be aware that an advisory committee would be subject to the sunshine laws since its recommendations would be made to the BOCC. As such, its meetings would be public, require public notice, minutes taken, and records kept. More funds would be required to provide the administrative support required by this advisory board.
2. A change in name from performance auditor to internal auditor. This would create confusion, misunderstanding, possibly additional costs, and could conflict with Clerk duties.
3. The original charter was created and passed with the expectation and intent that constitutional officers would not experience any change in their present duties and structure. Efforts to identify new duties for the IPA may unintentionally alter the Clerk duties. For example, Mr. McCall stated that the Clerk's duty should be restricted to pre audit, not post audit. This is contrary to the recent appellate court case of Dwight E. Brock, Clerk/Comptroller, Collier County vs. Collier County in which the Court ruled that the Clerk has both pre and post audit authority. This issue will be reviewed by the Supreme Court on September 2, 2010.

If it is not your opinion that the performance auditor should be eliminated from the Charter let me recommend the following:

1. Do not change any duties of the Clerk of Court as presently defined in constitution, statute and court decisions. In the case of the Clerk – if it is not broken, do not fix it.
2. Outline very clearly the responsibilities of the IPA in order to avoid overlap with the Clerk's duties.
3. Consider the option of a performance auditor and a budget analyst hired by the BOCC being authorized by ordinance. This could permit flexibility in their duties as times and needs evolve.

Sincerely,



Pat Frank
Clerk of the Circuit Court/Comptroller

cc: The Honorable Ken Hagan, Chairman
The Honorable Kevin Beckner
The Honorable Rose V. Ferlita
The Honorable Al Higginbotham
The Honorable Jim Norman
The Honorable Mark Sharpe
The Honorable Kevin White
Mr. Mike Merrill, Interim County Administrator
Mr. Richard Tarr
Mr. Sam McCall