

failed
RESOLUTION 67-2010

A RESOLUTION OF THE TOWN OF MALABAR, FLORIDA SUPPORTING THE ADOPTION OF THE BREVARD COUNTY MUNICIPAL VOTER CHARTER AMENDMENT ON THE NOVEMBER 2010 GENERAL BALLOT; ENDORSING THE PRINCIPLES OF HOME RULE AND ADOPTING THE POLICIES SET FORTH BELOW TO SUPPORT THE PREMISE THAT THE TOWN OF MALABAR SHOULD HAVE THE AUTHORITY TO GOVERN WITHIN ITS JURISDICTION; PROVIDING THAT SUCH AUTHORITY SHOULD NOT BE ERODED; PROVIDING AN EFFECTIVE DATE

WHEREAS, Section 7.4 requires that a charter review commission be appointed by the board of county commissioners every six years to review the home rule charter and provide recommendations for amendments of the charter for placement on the next general election ballot; and

WHEREAS, Section 7.4 requires that the charter review commission hold at least three public hearings on any proposed charter amendment or revision; and

WHEREAS, the Rules of Procedure adopted by the charter review commission further requires that charter amendments shall be transmitted to the board of county commissioners for placement on the ballot if at least 10 members of the charter review commission vote to approve it; and

WHEREAS, the charter review commission was constituted in August 2009; and

WHEREAS, the charter review commission held three public hearings on June 4th, June 17th and July 1st on the Municipal Voter Amendment ; and

WHEREAS, the Municipal Voter Amendment received 12 votes in favor of placing it on the ballot; and

WHEREAS, Chapter 166, Florida Statutes, entitled "Municipalities" and known as the "Municipal Home Rule Powers Act," provides a broad grant of authority to all municipalities to enable them to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 2(b), Article VIII, State Constitution, protects the rights of municipal government by means of language which reads as follows:

Municipalities shall have the governmental, corporate, and propriety powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, the legislature recognizes that, pursuant to the grant of power set forth in Section 2(b), Article VIII, State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act except for those subjects specifically listed at Section 166.021 (3)(a)-(d); and

WHEREAS, municipalities are voluntary forms of government and would not exist if communities had not organized and held special elections in order to create the local form of government; and

WHEREAS, residents in a community decide to incorporate in order to govern themselves and to gain a greater degree of control over issues that impact their quality of life and property interests directly; and

WHEREAS, municipalities represent the form of government which is closest to the people and therefore many people expressly choose to live within municipalities in order that their ideas may be heard on a more personal basis; and

WHEREAS, the issue of "home rule" has been a priority of the Brevard League of Cities; and

WHEREAS, the Town of Malabar desires to preserve this unique responsive form of government and believes it to be in the best interests of its citizens to adopt this Resolution formally stating its position regarding the proposed Municipal Voter Charter Amendment.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL THAT:

Section 1. The Town of Malabar believes that when issues are in conflict between the Brevard County Charter and a municipality or several municipalities, such conflict should be resolved by the approval by a majority of the electors within the County and a majority of the electors within the affected municipality or municipalities.

Section 2. The above stated policy has already been adopted by the Town of Malabar.

Section 3. The Town of Malabar finds that the proposed Municipal Voter Amendment will allow for conflicts between a municipality or several municipalities and Brevard County to be resolved by a vote of the electors within the affected municipality or municipalities.

Section 4. This Resolution shall be forwarded to Brevard County Board of County Commissioners and the Brevard League of Cities, Inc.

Section 5. This Resolution shall take effect immediately upon passage.

This Resolution was moved for adoption by Council Member Borton. This motion was seconded by Council Member Vail and, upon being put to vote, the vote was as follows:

Council Member Nancy Borton	Nay
Council Member Brian Vail	Nay
Council Member Steven (Steve) Rivet	Nay
Council Member Jeffrey (Jeff) McKnight	Abstain
Council Member Marisa Acquaviva	Nay

This Resolution was then declared to be FAILED this 20th day of September, 2010.

By: _____
Mayor Thomas M. Eschenberg, Chair

ATTEST:

Debby K. Franklin, CMC
Town Clerk/Treasurer

(seal)

Approved as to Form and Content:

Karl Bohne, Jr., Town Attorney

FAILED

Section 1.8. Charter amendments affecting municipalities.

No provision of this Charter adopted after December 1, 2010, which conflicts with, transfers, or limits any function, service, power, or authority of a municipality within Brevard County, shall apply to a municipality affected unless a majority of the voters in the municipality voting in a referendum approve the charter amendment.

Requires Municipal Voter Approval of County Charter Amendments Affecting Municipal Service, Function, Power or Authority

Shall the Brevard County Charter be amended to require that county charter amendments approved after December 1, 2010, that conflict with, transfer or limit a municipality's service, function, power, or authority apply to that municipality only if the amendment is approved or consented to by a majority of voters in that municipality voting in a referendum?

YES for approval _____

NO for rejection _____

FAILED