

**CHARTER COMMISSION AGENDA  
KU Edwards Campus- BEST Conf. Ctr  
And  
VIRTUAL MEETING  
MONDAY, February 14, 2022  
4:00 PM**

**CALL TO ORDER**

1. Roll call and Quorum

**APPROVALS**

1. Consider the Approval of the February 14, 2022, Agenda.
  
2. Consider the Approval of the January 26, 2022, Minutes.

**OLD BUSINESS**

**NEW BUSINESS**

1. Consider the Final Report and the two Minority Reports submitted.

**IF NECESSARY: NEXT MEETING AGENDA (Wednesday, February 16, 2022, at: 4:00 p.m.)**

- a. (If Necessary) Johnson County Administration Bldg. LL200/201, 111 S Cherry, Olathe  
– IN PERSON and Virtual

**ADJOURNMENT**

**Please Note at the KU – Edwards Campus:**

- **Masks are required. [protect.ku.edu](https://protect.ku.edu).**
- **Please try to have appropriate physical distance between others.**
- **No smoking on campus.**

## 2021 JOHNSON COUNTY CHARTER COMMISSION

### 21<sup>st</sup> Regular Meeting Minutes -

Wednesday, January 26, 2022

---

#### CALL TO ORDER

The twenty-first regular meeting of the 2021 Johnson County Charter Commission convened on Wednesday, January 26, 2022, at 4:02 p.m. via Virtual- Zoom. Greg Musil, Chairman of the Charter Commission called the meeting to order, made a statement and asked the Clerk to call the roll.

#### 1. Roll Call

The roll being called, it was found the following Members were present and participated in the meeting, to wit:

#### **Officers:**

Greg Musil, Chairman

Dawn Rattan, Vice-Chair

Ed Peterson, Secretary

#### **Members:**

Wendy Bingesser

Mike Boehm

Karin Brownlee

Vicki Charlesworth

Jim Denning

Jane Dirks

Jimmy Gaona

Tedrick Housh

Randy Hutchins

Laura Klingensmith

Joy Koesten

Eric Mikkelson

Leslee Rivarola

Don Roberts

Kyle Russell

Paula Schwach

Brenda Sharpe

Greg Smith

Zach Thomas

#### **Members Absent:**

Chris Iliff

Brent McCune

Greg Shelton

Also present were Cindy Dunham, Deputy Director of Legal Services; and Lynda Sader, Deputy County Clerk.

Chair Musil made a statement pertaining to the Home Rule Charter and the process of the Charter Commission.

#### APPROVALS

#### 1. Consider the Approval of the January 26, 2022, Agenda.

Paula Schwach moved to *Approve* the January 26, 2022, Agenda as presented. Wendy Bingesser seconded the motion. The motion carried unanimously. (22-0 with No objections)

2. Consider the Approval of the January 10, 2022, Minutes.

Brenda Sharpe moved to *Approve* the January 10, 2022, Minutes as presented. Tedrick Housh seconded the motion. The motion carried unanimously. (22-0 with No objections)

#### OLD BUSINESS

[None]

#### NEW BUSINESS

1. Proposed Recommendations (to the Board of County Commissioners) for Final Votes.

\*\*\*

- **Reorganize Sub-Commissions not currently under the direct control of the Elected County Commissioners and the Charter Commission to a structure that is.**

Randy Hutchins made a statement and discussion was had. Therefore, a vote was taken on Final consideration of the recommendation to the BOCC.

[It was noted that Brenda Sharp has an advisory position with the REACH Healthcare Foundation, Leslee Rivarola is a member of the JOCO Park and Recreation Commission, and Kyle Russel is a member of the JOCO Developmental Supports Board. It was decided that these members were not precluded from voting on this item.)

Bingesser – No  
 Boehm – No  
 Brownlee – No  
 Charlesworth – No  
 Denning - No  
 Dirks – No  
 Gaona - No  
 Housh – No  
 Hutchins – Yes  
 Klingensmith – No  
 Koesten – No  
 Mikkelson – No  
 Peterson – No  
 Rattan – No  
 Rivarola – No  
 Roberts – No  
 Russell – No  
 Schwach – No  
 Sharpe – No  
 Smith – No  
 Thomas - No  
 Chairman Musil – No

With the vote 1 Yes and 21 No, recommendation to the BOCC **Failed** in Final consideration.

\*\*\*

- **Continued effort to move forward on consolidation of rural fire districts in Johnson County.**

Karin Brownlee made a statement and discussion was had. Therefore, a vote was taken on Final consideration of the recommendation to the BOCC.

Bingesser – Yes  
Boehm – No  
Brownlee – Yes  
Charlesworth – No  
Denning - Yes  
Dirks – No  
Gaona - No  
Housh – No  
Hutchins – Yes  
Klingensmith – Yes  
Koesten – No  
Mikkelson – No  
Peterson – Yes  
Rattan – No  
Rivarola – No  
Roberts – No  
Russell – No  
Schwach – No  
Sharpe – No  
Smith – No  
Thomas - No  
Chairman Musil – No

With the vote 6 Yes and 16 No, recommendation to the BOCC **Failed** in Final consideration.

\*\*\*

- **The dialogue within the Charter Commission and the public comments received made apparent a lack of public understanding of the balance of authority between the BOCC and the Sheriff's Office. On one hand, the Sheriff is an elected position with some independent statutory authority. On the other hand, this authority is statutorily circumscribed by the general power of the BOCC to establish personnel policies and procedures and pay plans for county employees and the power to review and approve the budget for the operations of the Sheriff's Office.**

**The Charter Commission recommends that the BOCC budgetary process include and result in:**

- 1. A clear statement of the statutory duties of the Sheriff's Office.**
- 2. A line item budget which identifies funds required to meet these statutory duties.**
- 3. A line item budget which identifies funds for discretionary programs and projects.**
- 4. A budget total which combines the two and which may not be exceeded without additional approval of the BOCC.**

Paula Schwach made a statement and discussion was had. Therefore, a vote was taken on Final consideration of the recommendation to the BOCC.

Bingesser – No  
 Boehm – No  
 Brownlee – No  
 Charlesworth – Yes  
 Denning - No  
 Dirks – No  
 Gaona - No  
 Housh – No  
 Hutchins – No  
 Klingensmith – No  
 Koesten – Yes  
 Mikkelson – No  
 Peterson – Yes  
 Rattan – Yes  
 Rivarola – No  
 Roberts – No  
 Russell – Yes  
 Schwach – Yes  
 Sharpe – Yes  
 Smith – No  
 Thomas - No  
 Chairman Musil – No

With the vote 7 Yes and 15 No, recommendation to the BOCC **Failed** in Final consideration.

\*\*\*

- **Unincorporated Infrastructure**  
**Requesting that the Johnson Board of County Commission, with the advice from the Township Trustees, spend certain monies from the general fund, reserves, and public works funds of Johnson County, Kansas on the maintenance and upkeep of roads, bridges, culverts, and overall capital improvement in the unincorporated areas of Johnson County, Kansas.**

Randy Hutchins made a statement in conjunction with Jim Denning and discussion was had. It was noted that Mr. Hutchins was presenting a new revised, updated recommendation for the Unincorporated Infrastructure item and was received by the Clerk a short time before this meeting. A short break was taken for the Commission members to review the new recommendation along with a red-line version.

#### RECESS

The Commission, at 5:07 p.m., recessed.

#### RECONVENE

The Commission, at 5:12 p.m. reconvened in open session.

*[Thereupon, the Commission returned to its discussion of the Unincorporated Infrastructure recommendation.]*

Additional discussion was had.

Mike Boehm made a request to call a question on the red-line version presented during the meeting with no amendments to the red-line version. A vote was taken to Stop the Debate of the red-lined version of the Unincorporated Infrastructure item that was provided to the Clerk on 1/26/2022 and reviewed by the Commission at this meeting.

Bingesser – Yes

Boehm – Yes

Brownlee – No

Charlesworth – Yes

Denning - No

Dirks – No

Gaona - Yes

Housh – Yes

Hutchins – No

Klingensmith – Yes

Koesten – Yes

Mikkelson – Yes

Peterson – Yes

Rattan – Yes

Rivarola – Yes

Roberts – Yes

Russell – Yes  
Schwach – Yes  
Sharpe – Yes  
Smith – No  
Thomas - No  
Chairman Musil – Yes

With a vote of 16 Yes and 6 No, therefore this motion **Passed**.

The Chair therefore stated that the Commission would now vote on the recommendation (red-lined version) presented today to the Commission.

Bingesser – No  
Boehm – No  
Brownlee – Yes  
Charlesworth – No  
Denning - Yes  
Dirks – Yes  
Gaona - No  
Housh – No  
Hutchins – Yes  
Klingensmith – No  
Koesten – No  
Mikkelson – No  
Peterson – No  
Rattan – No  
Rivarola – No  
Roberts – Yes  
Russell – No  
Schwach – No  
Sharpe – No  
Smith – Yes  
Thomas - Yes  
Chairman Musil – No

With the vote 7 Yes and 15 No, recommendation to the BOCC **Failed** in Final consideration.

Laura Klingensmith left the meeting at approximately 5:35 p.m.

2. Consider a New proposed recommendation pertaining to the BOCC Compensation. If authorized, will be discussed and voted on. (Recommendation is consistent with the proposed Amendment)

Chairman Musil noted that he would allow this recommendation to be discussed and voted on.

Therefore, Kyle Russell presented his recommendation and therefore discussed by the Commission. Therefore, a vote was taken on Final consideration of the recommendation to the BOCC.

Bingesser – No  
Boehm – No  
Brownlee – No  
Charlesworth – Yes  
Denning - No  
Dirks – No  
Gaona - No  
Housh – No  
Hutchins – Yes  
Koesten – Yes  
Mikkelson – Yes  
Peterson – Yes  
Rattan – Yes  
Rivarola – No  
Roberts – No  
Russell – Yes  
Schwach – Yes  
Sharpe – Yes  
Smith – No  
Thomas - Yes  
Chairman Musil – No

With the vote 10 Yes and 11 No, recommendation to the BOCC **Failed** in Final consideration.

3. Establish a deadline for submission of any minority reports.

Chairman Musil discussed the process for the Final Report and the process for Minority reports. The Commission members discussed and made comments on the process. A deadline was discussed for the Minority reports to be sent to the Clerk by close of business on Monday February 7<sup>th</sup>, to then be sent to the Commission for review. There were no objections to this deadline and therefore was accepted.

4. Establish process and timing for submission of draft report and consideration and vote on the final report to the BOCC.

This was discussed during item #3.

**NEXT MEETING AGENDA (Monday, February 14, 2022, at: 4:00 p.m.)**

Note: Decision on In-Person and/or Virtual will be forthcoming.  
If In-Person: Scheduled at KU Edwards BEST Conference Center– In Person and Virtual

- Continue consideration of Charter Commission Responsibilities

**ADJOURNMENT**

Kyle Russell moved to *Adjourn* the meeting and Jane Dirks seconded the motion. The motion carried unanimously. (21-0 with No objections)

The meeting was adjourned at 5:59 p.m.

PREPARED BY Lynda Sader

\*\*\*

The journal entry for Wednesday, January 26, 2022, as recited above, having been read and considered by the Charter Commission, and having been found to be correct as written, was approved on this the fourteenth day of February 2022.

CHARTER COMMISSION  
JOHNSON COUNTY, KANSAS

---

ED PETERSON, *Secretary*

ATTEST:

---

LYNDA SADER, *Deputy County Clerk (Clerk to the Commission)*

**REPORT OF THE 2021 JOHNSON COUNTY CHARTER COMMISSION**

**INTRODUCTION:**

The 2021 Johnson County Charter Commission presents this Report to the Board of County Commissioners (“BOCC”) pursuant to K.S.A. 19-2680 *et seq.* and Johnson County Home Rule Charter §6.04. This Report summarizes the creation, organization, and activities of the 2021 Charter Commission, including twenty-two (22) separate meetings and two public hearings. After significant effort, multiple presentations, and robust discussion, no proposed amendments received the required thirteen (13) affirmative votes. Therefore, no amendments to the Home Rule Charter are being forwarded to the BOCC for placement on the November 2022 ballot, indicating a majority belief that, taken as a whole, the existing Charter is functioning in an acceptable manner.

This Report reviews the membership, informational presentation, public hearings, and proposed amendments and recommendations considered by the Charter Commission. The Charter Commission proceedings were all made available virtually and the Charter Commission website ([www.charter.jocogov.org](http://www.charter.jocogov.org)) ensured that the public was fully informed of Commission meeting dates, agendas, minutes, video recordings of meetings, proposed amendments, the existing Home Rule Charter, and other resources. The Charter Commission is proud of the transparent nature of these proceedings as evidenced by the substantive and enthusiastic participation by a number of citizens, whether in-person, virtually, or through the web site.

It is important to note here that the Commission’s work could not have been accomplished without the strong support of County staff, most importantly Deputy County Clerk Lynda Sader, Deputy County Manager Maury Thompson, and Deputy Director of Legal Cynthia Dunham. In addition, County Information Services personnel, under the able leadership of Bill Nixon, Chief Information Officer and Director, provided outstanding technological support throughout, a particularly difficult effort given that we met in three different physical locations with different technology challenges in each location. We greatly appreciate the significant effort in time and resources the County dedicated to this once-a-decade effort.

**CREATION AND ORGANIZATION OF THE COMMISSION**

The Home Rule Charter requires the appointment every ten years of a 25-member Charter Commission. The Charter Commission is empowered to “conduct comprehensive studies of any or all phases of County government operations, including a review of the existing County Charter and major resolutions of the Commission as they affect the operation of Johnson County government.” Charter §6.04. In addition, the Commission may include suggested changes in the

administration of the County government, programs, and activities” and “may also include proposed amendments to the Charter.” Any proposed Charter amendments which receive a majority vote (i.e., 13) are to be submitted to the BOCC and then must be placed on the ballot for a vote at the next regularly scheduled election (so long as the proposed amendment is certified by a Kansas licensed attorney as “not in conflict with the constitution and general laws of the state” and is “allowed by law.”) *See* K.S.A. 19-2684 and Charter §6.04.

Pursuant to K.S.A.19-2682 and Home Rule Charter §6.04, the nominating authorities identified by statute appointed twenty-five Johnson County citizens who comprise the 2021 Charter Commission. Members of the Commission are as follows:

Kansas Senate Appointments: Wendy Bingesser, Jane Dirks, Karin Brownlee

Kansas House Appointments: Dawn Rattan, Zach Thomas, Ed Peterson

Johnson County Democratic Central Committee: Joy Koesten, Greg Shelton

Johnson County Republican Central Committee: Jim Denning, Greg Smith

Johnson County Board of County Commissioners:

District 1	Kyle Russell
District 2	Vicki Charlesworth
District 3	Laura Klingensmith
District 4	Brenda Sharpe
District 5	Jimmy Gaona
District 6	Brent McCune
District 7	Eric Mikkelson Leslee Rivarola

Johnson County Chambers of Commerce: Tedrick Housh III, Greg Musil

Johnson County Cities/Council of Mayors: Mayor Mike Boehm, Mayor Don Roberts, Mayor Paula Schwach

Johnson County Planning Commission/Unincorporated Area: Randy Hutchins, Chris Iliff

The twenty-five members served without compensation for a schedule that included 22 meetings, two public hearings, and over 48 total hours of public meeting time.

The initial meeting of the Charter Commission was virtual and was hosted by BOCC Chair Ed Eilert on March 1, 2021. On April 12, 2021, the Commission met virtually and elected the following officers:

Chair:	Greg Musil
Vice Chair	Dawn Rattan
Secretary	Ed Peterson

The Charter Commission established its procedural rules. The rules were considered and adopted, as amended, at the Commission's May 26, 2021 meeting. A copy of the Commission's adopted rules was accessible to the public on the Commission's website at:

<https://charter.jocogov.org/sites/charter.jocogov.org/files/docs/2021%20RULES%20OF%20ORDER%20ADOPTED%20AS%20AMENDED%205-26-21.pdf>

## **WORK OF THE CHARTER COMMISSION**

From April 12, 2021, through February 16, 2022, the Commission met regularly, typically on the second Monday and fourth Wednesday of each month and typically from 4:00-6:00 p.m. Regular meetings were held at the University of Kansas Edward Campus and the Johnson County Administration Building. Each meeting also provided a virtual, online option for both Commission members and members of the public.

The Home Rule Charter requires at least one public hearing. The Commission committed in early meetings to hold two public hearings. Public hearings were held on October 11 and October 27, 2021, both at the Olathe Embassy Suites Hotel and both scheduled for 5:30-7:30 p.m. At those hearings more than 50 citizens provided input to the Commission, either in-person or virtually. In addition to receiving input at public hearings, the Charter Commission website invited comments from the public. Over 850 separate submissions were made on the website.

During the months of April through August, the Commission heard presentations and were able to ask questions and seek information from the seven current County Commissioners, the County Manager, the former and first District 7 (county-wide) BOCC Chair, and numerous County governmental branches, departments and agencies, including the District Court- Chief Judge; the Sheriff; the District Attorney; Aging and Human Services; Airport Commission; Appraiser; Budget and Financial Planning; Corrections; Developmental Supports; Emergency Management-Med-Act; Planning, Housing and Community Development; Election Office; Financial Management and Administration; Health and Environment; Library; Mental Health, Parks and Recreation; Public Works; Treasury, Taxation and Vehicles; and Wastewater. The Commission also received written input from the two prior County Managers.

At its September meeting, the Charter Commission reviewed each section of the existing Home Rule Charter with the opportunity for questions and comments. As noted above, the October meetings were conducted as public hearings. Thereafter, in November and December 2021 and in January 2022 the Commission received, discussed and voted on proposed amendments and proposed recommendations.

### **Proposed Amendments:**

The Commission established a deadline for Commission members to submit proposed Home Rule Charter amendments for consideration by the Commission. Fifteen (15) amendments were proposed by Commission members. Pursuant to the Commission's adopted rules, all proposed amendments were proposed at a First Reading, followed by initial discussion. If a proposed amendment received nine (9) votes following First Reading, the amendment would proceed to Second Reading for additional discussion and, ultimately, a final vote. If an amendment failed to receive 9 votes on First Reading, it failed and was not considered further.<sup>1</sup>

The fifteen proposed amendments are generally described here, along with the resolution of each and a listing of the meetings where substantive discussions occurred.<sup>2</sup>

1. Changing the election of the Sheriff from a partisan to a non-partisan basis.

First Reading: This proposal advanced to Second Reading with a vote of 12 for and 13 against.

Second Reading: This proposal was withdrawn by the sponsor following receipt of a legal opinion from the Charter Commission's counsel. Discussion of this proposal occurred in meetings on December 6, 13, and 22, 2021.<sup>3</sup>

---

<sup>1</sup> Each vote by a Commission member on an amendment or a recommendation was a public vote and is recorded in the minutes of the meeting in which it occurred.

<sup>2</sup> The Commission was benefitted by a partial record of the 2011 Charter Commission but was also hindered by the lack of a thorough history from either the 2000 or the 2011 Charter Commission efforts. The 2021 Commission hopes that by offering a more complete record of its work, as reflected and captured on the website, future Charter Commissions will benefit from our work. In addition, by identifying in this Report the meeting dates when a particular amendment or recommendation was discussed, citizens can more easily access the minutes and recordings of discussions on issues of interest to them.

<sup>3</sup> The Commission engaged the Foulston Siefkin law firm to review certain proposed amendments and to provide a legal opinion regarding whether a proposed Home Rule Charter amendment complied with or was consistent with existing Kansas statutes and the Kansas Constitution. Those opinions would have technically been subject to the attorney-client privilege as confidential communications between the

2. Create a public health and safety advisory board to provide counsel for the public health department and county sheriff's department. (Proposed amendments 2 and 9 were combined by the respective sponsors and ultimately considered as a single proposed amendment.)

*See #9, below, for process information.*

Discussion of this proposal occurred in meetings on November 8 and 17 and December 21 and 22, 2021.

3. Change the format of all county elections to a partisan basis.

First Reading: This proposal failed to receive the 9 votes required to move on to Second Readings with a vote of 8 for and 17 against.

Discussion of this proposal occurred in the meeting on December 6, 2021.

4. All vacancies on the BOCC should be filled by a special election unless the next scheduled election is within 90 days of the position becoming vacant.

First Reading: This proposal advanced to Second Reading with a vote of 10 for and 14 against.

Second Reading: This proposal failed to receive 13 votes, with the final vote of 9 for and 14 against. Discussion of this proposal occurred in meetings on November 8 and December 22, 2021.

5. Directors of the Library board, Parks and Recreation Board, Airport Commission, Mental Health Board and Developmental Supports Board shall be appointed by the BOCC based on education and experience and required to be a resident and qualified elector in Johnson County.

This proposal was withdrawn by the sponsor. Discussion of this proposal occurred in the meeting on November 8, 2021.

---

attorney (Foulston Siefkin) and the client (the 2021 Charter Commission). However, the 2021 Charter Commission voluntarily waived the attorney-client privilege in order for the opinions to be disclosed publicly both to provide context for the Commission's deliberations and to provide guidance to future Charter Commissions on the specific subject matter. A list of the legal opinions received is attached as Exhibit 1.

6. Administrative “clean-up” of Home Rule Charter text.

This proposal was withdrawn by consensus. The Charter Commission consensus was that “clean-up” amendments would not be forwarded to the BOCC and placed on the ballot for a public vote unless at least one substantive amendment was also recommended and placed on the ballot.

7. County manager shall appoint department directors, division heads and the County Clerk, Register of Deeds, and Treasurer; District Attorney and Sheriff shall be elected on a non-partisan basis; the BOCC shall approve the Sheriff’s budget and the Sheriff shall be personnel policies and procedures adopted by the BOCC and all other administrative policies adopted by the BOCC not inconsistent with law.

The portion of this proposal relating to non-partisan election of the Sheriff was withdrawn by the sponsor following receipt of a legal opinion from the Charter Commission’s counsel.

First Reading: This proposal advanced to Second Reading with a vote of 14 for and 11 against.

Second Reading: The remainder of the proposal failed to receive 13 votes, with the final vote of 4 for and 21 against. Discussion of this proposal occurred in meetings on December 6, 13 and 22, 2021 and January 10, 2022.

8. Administrative “clean-up” of Home Rule Charter text ;

This proposal was withdrawn by consensus. The Charter Commission consensus was that “clean-up” amendments would not be forwarded to the BOCC and placed on the ballot for a public vote unless at least one substantive amendment was also recommended and placed on the ballot.

9. Creation of a Public Health Advisory Council to provide guidance to the BOCC when it acts as the Public Health Board. (Proposed amendments 2, above, and 9 were combined by the sponsors and ultimately considered as a single proposed amendment as resubmitted on November 17, 2021.)

First Reading: This proposal advanced to Second Reading with a vote of 12 for and 10 against.

Second Reading: This proposal failed to receive 13 votes, with the final vote of 7 for and 16 against. Discussion of this proposal occurred in meetings on November 8 and 17 and December 13 and 22, 2021.

10. Establish an automatic increase in compensation for BOCC members based on the consumer price index and other parameters.

First Reading: This proposal advanced to Second Reading with a vote of 18 for and 5 against.

Second Reading: This proposal failed to receive 13 votes, with the final vote of 11 for and 12 against. Discussion of this proposal occurred in meetings on November 17 and December 13 and 22, 2021. A similar proposal was submitted and considered as a recommendation, as noted below.

11. Revised the process for electing the District 7 BOCC member (county-wide chair) by moving to an odd-year election (original proposal) or by moving to a six-year term (revised proposal as voted on).

First Reading: This proposal advanced to Second Reading with a vote count of 23 for and 0 against.

Second Reading: This proposal failed to receive 13 votes, with the final vote of 7 for and 18 against. Discussion of this proposal occurred in meetings on November 17 and December 13 and 22, 2021 and January 10, 2022.

12. BOCC approval of new hires or reappointments of department directors or division heads.

First Reading: This proposal advanced to Second Reading with a vote of 9 for and 14 against.

Second Reading: This proposal failed to receive 13 votes, with the final vote of 7 for and 16 against. Discussion of this proposal occurred in meetings on November 17 and December 22, 2021.

13. Change the positions of County Clerk, County Register of Deeds, and County Treasurer to elected positions from their current status as appointed positions.

First Reading: This proposal failed to receive the 9 votes required to move on to Second Reading with a vote of 8 for and 17 against. Discussion of this proposal occurred in the meeting on November 8, 2021.

14. Establishment of “Johnson County Unincorporated Trustee” position elected by the unincorporated citizens of Johnson County.

First Reading: This proposal advanced to Second Reading with a vote of 9 for and 16 against.

Second Reading: This proposal was modified and ultimately withdrawn during the Second Reading. Discussion of this proposal occurred in meetings on November 8 and December 13 and 22, 2021 and January 10, 2022. A legal opinion was requested and received on the proposal as originally submitted and as revised. A similar proposal was submitted and considered as a recommendation, as noted below.

15. Change the Head of the Johnson County Appraisal Office to an elected position.

This proposal was withdrawn by the sponsor. Discussion of this proposal occurred in the meeting on November 8, 2021.

### **Proposed Recommendations:**

The Commission established a deadline for Commission members to submit proposed Home Rule Charter recommendations for consideration by the Commission. A total of 4 recommendations were proposed by Commission members. The recommendations are generally described here, along with the resolution of each and a listing of the meetings where substantive discussions occurred.

1. Reorganize sub-commissions so that those not currently under the direct control of the BOCC and the Charter Commission are under that control

This proposal failed to receive 13 votes, with the final vote of 1 for and 21 against. Discussion of this proposal occurred in meetings on January 10 and January 26, 2022.

2. Continue efforts to move forward on consolidation of rural fire districts in Johnson County.

This proposal failed to receive 13 votes, with the final vote of 6 for and 15 against. Discussion of this proposal occurred in meetings on January 10 and January 26, 2022.

3. Clarify the balance of authority between the BOCC and the Sheriff by ensuring the BOCC budgetary process includes a) a clear statement of the statutory duties of the Sheriff's office, b) a line item budget identifying funds required to meet those statutory duties, c) a line item budget identifying funds used for discretionary programs and projects, and d) a budget total of those two funds which may not be exceeded without additional approval of the BOCC.

This proposal failed to receive 13 votes, with the final vote of 7 for and 15 against. Discussion of this proposal occurred in meetings on January 10 and January 26, 2022

4. Expanded infrastructure funding for unincorporated areas in Johnson County.

This proposal failed to receive 13 votes, with the final vote of 7 for and 15 against. Discussion of this proposal occurred in meetings on January 10 and 26, 2022.

5. Establish an automatic compensation increase structure for the Board of County Commissions.

This proposal failed to receive 13 votes, with the final vote of 10 for and 11 against. Discussion of this proposal occurred in the meeting on January 26, 2022.

#### **MINORITY REPORT:**

The rules of the Charter Commission provide the opportunity for any member of the Commission to submit a minority report. Two minority reports were submitted and are attached to this report.

#### **CONCLUSION:**

The work of the 2021 Charter Commission did not result in any proposed ballot amendments or proposed recommendations to the Board of County Commissioners. It did, however, provide for a comprehensive review of county government by a diverse group of twenty-five citizens, the opportunity for the Commission and citizens to learn and pose questions about the county's governmental structure, multiple methods for comment and input by Johnson County citizens, a complete and transparent record of Commission activities, and a thorough discussion regarding numerous proposed amendments and recommendations. Given the diverse, informed, and energetic group of Charter Commission members, we believe this process and result reflect a general satisfaction with the current Charter and operations of County government under that Charter. The process and consideration of county government was completed according to the spirit and letter of the Home Rule Charter and Kansas Statute.

THIS REPORT WAS APPROVED WITH THE AFFIRMATIVE VOTE OF THIRTEEN OR MORE MEMBERS OF THE 2021 CHARTER COMMISSION ON FEBRUARY \_\_, 2022.

Respectfully submitted,

Greg L. Musil  
Chair

DRAFT

## EXHIBITS

### LEGAL OPINIONS RECEIVED

- Exhibit A:** Opinion regarding whether the Charter Commission may change the election of the county sheriff from partisan to non-partisan.
- Exhibit B:** Opinion regarding the creation of an elected trustee for the unincorporated areas of the county.
- Exhibit C:** Opinion regarding the applicability of county personnel and administrative regulations and policies to the Sheriff and District Attorney.
- Exhibit D:** Opinion regarding the election of the District 7 Commissioner (the chair) in an odd-number calendar year.
- Exhibit E:** Opinion regarding mandating certain governmental subdivisions and the Board of County Commissioners to take actions related to the unincorporated areas of the county.

**MINORITY REPORTS**

DRAFT

# 2021-2022 Johnson County Charter Commission

## Minority Report

### Concerning Compensation for BOCC Members

Signed on: Kyle Russell, Ed Peterson, Dawn Rattan, Paula Schwach, Greg Shelton, Joy Koesten, Brenda Sharpe, Vicki Charlesworth, and Eric Mikkelson.

#### Overview

Although the Charter Commission’s final Report is accurate regarding its work during the past year, we the undersigned members of the Charter Commission believe a Minority Report is appropriate regarding the single issue of the need for increased compensation for members of the Board of County Commissioners (“BOCC”). Throughout the Charter Commission’s deliberative process, this issue consistently received more support than any other proposed amendment to the Home Rule Charter or proposed recommendation to the BOCC. The issue was first introduced as a proposed amendment to the Home Rule Charter. That amendment failed to gain approval with 11 members voting in favor and 12 against (with two members absent). The concept was later reintroduced as a proposed recommendation, when it again failed with 10 members voting in favor and 11 voting against (this time with four members absent). Based on the voting record, at least 12 of the 25 Charter Commission members support increased pay for BOCC members, either as a proposed charter amendment or a formal recommendation. Although this issue could have been addressed through an amendment to the Home Rule Charter, the BOCC does have the power to address it without such an amendment, and the Charter Commission members who join in this report strongly urge the BOCC to do so promptly.

#### Basis for the Proposed Charter Amendment and Recommendation

Pursuant to Kansas Statute § 19-2680 (a), the Home Rule Charter may “fix the number, term and compensation of the commissioners.” The current version of the Johnson County Home Rule Charter provides only that, “The Commission shall continue to determine the salary and benefits of its members by resolution,” and, “The Chair shall receive additional compensation no less than 25 percent of the base compensation of Commissioners.” Home Rule Charter, Section 2.05. Therefore, it is clearly within the Charter Commission’s authority to propose an amendment to the voters that would provide for increases in compensation for BOCC members (including the Chair) in future years.

**History of BOCC Compensation.** During the Charter Commission’s work, it came to our attention that compensation for the BOCC Chair and its other members had increased by 3 percent per year between 2003 and 2008. After no increase in 2009 or 2010, the salary for all BOCC members (including the Chair) was reduced by 5 percent in 2011, and the Chair’s salary was reduced by an additional 9% in 2012. As a result, the current salary of the Chair (\$75,000.00 per year) is less than it was at any time from 2004 to 2011. The current salary of the other BOCC

members (\$47,349.38 per year) is less than it was from 2007 to 2010, and that is without considering any increase in the cost of living. See Exhibit A to this report for the full salary history of the BOCC members and Chair since 2003.

From the beginning of 2003 until the end of 2021, the Consumer Price Index for Urban Wage Earners and Clerical Workers (“CPI-W”) has gone from 177.7 to 273.925 – an increase of 54.1 percent over that 18-year period. During the same period, the salary for the BOCC Chair has stayed the same (after increases followed by decreases), and the salary for the other BOCC members has increased 10 percent – less than one-fifth the increase in the CPI-W. From January 2010 through December 2021, the CPI-W went from 212.568 to 273.925 – an increase of nearly 29 percent. During that same, time, the salary of the BOCC Chair has *decreased* by 13.7 percent, from \$86,945.56 to its current level of \$75,000.00. The salary for BOCC members has likewise *decreased* by 5 percent, from \$49,841.00 to its current level of \$47,349.38. See Exhibit B to this report for the historical values of the CPI-W from 2003 through 2021.

**Pay for Comparable Positions Elsewhere.** If salaries for the BOCC Members had kept pace with the CPI-W since 2003 (as the County generally has done for its employees from year to year during that time frame), the 2022 salary for the BOCC Chair would be approximately \$115,575.00, and the salary for the other BOCC members would be approximately \$66,250. In addition, it has been brought to our attention that Sedgwick County (population 521,128, smaller than Johnson County) currently offers its county commissioners a salary of \$101,000 per year, and Riley County (population 73,272) currently offers its commissioners \$55,000 per year.

We realize that citizens should not run for BOCC or any elected positions because of the compensation, and we are not encouraging anyone to do so. However, we also believe the compensation for these important leadership positions should reflect the importance of the role and the time commitment involved. In addition, we believe the BOCC’s failure to keep up with the cost of living with respect to its own compensation for the last two decades has likely discouraged many qualified candidates from seeking these positions. A continued failure to increase BOCC pay as the cost of living – as well as pay for county employees – continues to go up will likely result in even more otherwise qualified candidates declining to run because the compensation is not commensurate with the responsibility and time commitment involved.

### Conclusion

Inadequate compensation for BOCC members is a problem that needs to be fixed as soon as possible so that present and future BOCC members are paid fairly for the time that their work requires and the responsibilities that they undertake as community leaders. We attempted to fix this problem by proposing an amendment to the Home Rule Charter for approval by the voters, followed by a formal recommendation to the BOCC. With both of those efforts narrowly failing to gain the required number of votes, we urge the BOCC to act within its authority and pass a resolution adopting a standing policy to adjust compensation for BOCC members each year beginning in 2023 by the lower of (a) the change in the CPI-W for the trailing 12 months; or (b) the average budgeted compensation adjustment for all county employees.



**Exhibit B**  
**Value of CPI-W from 2003 through 2021**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2003	177.7	179.2	180.3	179.8	179.4	179.6	179.6	180.3	181.0	180.7	180.2	179.9
2004	180.9	181.9	182.9	183.5	184.7	185.3	184.9	185.0	185.4	186.5	186.8	186.0
2005	186.3	187.3	188.6	190.2	190.0	190.1	191.0	192.1	195.0	195.2	193.4	192.5
2006	194.0	194.2	195.3	197.2	198.2	198.6	199.2	199.6	198.4	197.0	196.8	197.2
2007	197.559	198.544	200.612	202.130	203.661	203.906	203.700	203.199	203.889	204.338	205.891	205.777
2008	206.744	207.254	209.147	210.698	212.788	215.223	216.304	215.247	214.935	212.182	207.296	204.813
2009	205.700	206.708	207.218	207.925	208.774	210.972	210.526	211.156	211.322	211.549	212.003	211.703
2010	212.568	212.544	213.525	213.958	214.124	213.839	213.898	214.205	214.306	214.623	214.750	215.262
2011	216.400	217.535	220.024	221.743	222.954	222.522	222.686	223.326	223.688	223.043	222.813	222.166
2012	223.216	224.317	226.304	227.012	226.600	226.036	225.568	227.056	228.184	227.974	226.595	225.889
2013	226.520	228.677	229.323	228.949	229.399	230.002	230.084	230.359	230.537	229.735	229.133	229.174
2014	230.040	230.871	232.560	233.443	234.216	234.702	234.525	234.030	234.170	233.229	231.551	229.909
2015	228.294	229.421	231.055	231.520	232.908	233.804	233.806	233.366	232.661	232.373	231.721	230.791
2016	231.061	230.972	232.209	233.438	234.436	235.289	234.771	234.904	235.495	235.732	235.215	235.390
2017	236.854	237.477	237.656	238.432	238.609	238.813	238.617	239.448	240.939	240.573	240.666	240.526
2018	241.919	242.988	243.463	244.607	245.770	246.196	246.155	246.336	246.565	247.038	245.933	244.786
2019	245.133	246.218	247.768	249.332	249.871	249.747	250.236	250.112	250.251	250.894	250.644	250.452
2020	251.361	251.935	251.375	249.515	249.521	251.054	252.636	253.597	254.004	254.076	253.826	254.081
2021	255.296	256.843	258.935	261.237	263.612	266.412	267.789	268.387	269.086	271.552	273.042	273.925

Source: [https://data.bls.gov/timeseries/CWUR0000SA0?amp%253bdata\\_tool=XGtable&output\\_view=data&include\\_graphs=true](https://data.bls.gov/timeseries/CWUR0000SA0?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true)

## Minority Report for 2021-22 Charter Commission

February 8, 2022

Signed by Karin Brownlee, Wendy Bingesser, Jim Denning, Jane Dirks, Randy Hutchins, Laura Klingensmith and Greg Smith

When the charter commission legislation was created in 1999, the goal was to provide the public an avenue to impact Johnson County government and address any needed structural changes not being addressed by the Board of County Commissioners (BOCC). BOCC actions and decisions responding to the COVID pandemic resulted in the public wanting to engage in the charter review process at a historical high level of interest.

A great deal of time was consumed during this charter commission reviewing current practices and budgets in Johnson County government. This was done without first reviewing the current charter. Conducting a thorough review of the Charter at the beginning of the process would have set the tone for thoughtful discussion on anything that might legitimately need consideration for an update. Interestingly enough, none of the department heads or county elected leaders mentioned possible changes to their departments.

Every ten years likely has the cultural notions of that time. This charter commission had the pandemic frustrations to sort through but also coming from another political perspective, the idea that law enforcement needs increased scrutiny and needs to be “re-imagined.” The position of the elected county sheriff became the focus of attention.

Kansas statute protects the position of the county sheriff as necessarily being elected and elected on a partisan basis. Further, the practice across the country in 3500 counties is that more than 85% of sheriffs are elected on a partisan basis. More importantly, the citizens of Johnson County spoke loudly and clearly that they want to continue to elect their sheriff on a partisan basis.

The sentiment of the public was on full display at an announced September, 2021 public meeting which was set in a facility requiring masks and “social distancing.” The chair of the charter commission assessed that the crowd of roughly 150 people was not in compliance and the meeting was abruptly ended. In all due respect, the Chair had little choice but to make the decision to cancel the meeting as the meeting was in clear violation of the host building’s policy. The meeting probably should have been conducted in a larger facility that recommended (but not required) masks and distancing. Six charter commission members remained at the facility to listen to those who so desperately wanted their opinions heard. It was amazing to see the anger of the crowd dissipated as each speaker was allowed to present their views in an orderly fashion.

In any body that is voting to make decisions, the majority rules. We all understand this. For some of us, we wanted to make what we viewed as positive changes to the county charter and were unable to garner the votes to do so. For others, there was a commitment to leave everything the same. This worked well in the case of the repeated targeting of the elected sheriff. For those who wanted partisan elections of county commissioners, this did not work well.

Yet there were also meetings where the ideological leanings of the charter commission members did not seem to dictate the outcome of the vote. Thoughtful consideration was given to what was being offered and discussed. We take heart that this can occur again.

The bottom line is that Johnson County citizens need to be involved in the election of their commissioners and other county elected officials. Running for public office and being involved in this process remains the most effective manner to effect the needed changes.