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February 1, 2012

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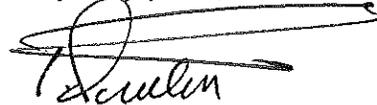
The Hon. Ed Eilert  
Chairman, Board of County Commissioners  
Johnson County Administration Building  
111 S. Cherry  
Olathe, Kansas 66061

Dear Chairman Eilert:

As you know, the 2011 Johnson County Charter Commission finished its work on January 9, 2012. I am forwarding the report of the Commission approved by a majority of its members. Attached to the report is a Minority Report subscribed by certain members who wanted to be clear about their positions which did not prevail. The Charter Commission concluded its deliberations without recommending any amendments to the existing Johnson County Charter adopted in 2000.

I plan to be present at the Board of County Commissioners meeting on Thursday, February 9, 2012, to present the report formally and to respond to any questions that Commissioners may have.

Very truly yours,



L. Franklin Taylor

James R. Hubbard  
Thomas E. Ruzicka  
Scott Harrison Kreamer  
Gregory D. Kincaid  
L. Franklin Taylor  
Frank W. Lipsman  
Dana L. Parks  
Allan E. Coon  
D. Todd Arney  
Kevin D. Wait  
Peggy S. Bisping  
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LFT:mah  
Enclosure

Of Counsel:  
Joseph S. Davis, Jr.

Joe L. Norton (1942-2008)

**REPORT OF THE 2011 JOHNSON COUNTY CHARTER COMMISSION**

**INTRODUCTION:**

The 2011 Johnson County Charter Commission is pleased to present to the Board of County Commissioners its final report. The report is a summary of the creation, organization and activities of the Charter Commission as well as an outline and brief commentary on the Charter Commission’s findings and recommendations.

The report briefly reviews some of the concerns and issues deliberated by the Charter Commission over a twelve-month period of time; a complete record would comprise many volumes. Additional information on any subject matter summarized in this report is available from the Charter Commission. The Commission welcomes inquiries.

**THE CHARTER COMMISSION – ITS CREATION, ORGANIZATION AND WORK**

The original Johnson County Charter Commission which proposed the existing Johnson County Charter was created by a 1999 Act of the Kansas Legislature. The Johnson County Charter, adopted by voters in 2000, provides for a review by a 25 member Charter Commission after the Charter has been in effect for ten years. The Charter Commission appointed to review the Charter is comprised of 25 Johnson County citizens appointed by the same authorities as the original charter:

1. (A) **Three members shall be appointed by the members of the Senate of the State of Kansas who are residents of Johnson County;**

<b>Jim O’Connell</b>	<b>Shawnee</b>
<b>Michael Pirner</b>	<b>Lenexa</b>
<b>Dwight Sutherland</b>	<b>Mission Hills</b>

- (B) **Three members shall be appointed by the members of the House of Representatives of the State of Kansas who are residents of Johnson County;**

<b>Bernard Bianchino</b>	<b>Overland Park</b>
<b>Melanie Bacon</b>	<b>Olathe</b>
<b>Jeffrey Melcher</b>	<b>Leawood</b>

**Each member appointed pursuant to this subsection (1) shall reside in a different senatorial district;**

2. **Two members shall be appointed by the governing body of the Johnson County Republic Central Committee;**

<b>Clay Barker</b>	<b>Leawood</b>
<b>Jody Kramer</b>	<b>Lenexa</b>

3. Two members shall be appointed by the governing body of the Johnson County Democratic Central Committee;

Connie Shidler	Overland Park
Greg Wolf	Prairie Village

4. Eight members shall be appointed by the Board of County Commissioners. Of such members, one member shall be appointed for each County Commissioner district and the remaining shall represent the County at-large;

Mayor Ron Shafer	Prairie Village
Eric Jenkins	Shawnee
Dr. Bob Davis	Overland Park
Dennis Kriegshauser	Overland Park
Bob Wilhelm	Olathe
John Resman	Olathe
Jill Gerlach	Overland Park
Jean Wise	Leawood

5. Two members shall be appointed by the Johnson County Chamber Presidents Council;

Tracey Osborne	Overland Park
Frank Taylor	Olathe

6. Three members shall be appointed by the Johnson County members of the Johnson and Wyandotte Counties Council of Mayors. Such members shall be Mayors or their designees of cities located in Johnson County;

Mayor Mike Boehm	Lenexa
Mayor Rick Boeshaar	Mission Hills
Mayor Michael Copeland	Olathe

7. Two members shall be appointed by the Johnson County Planning Commission. Such members shall be residents of the unincorporated area of Johnson County.

Chris Hliff	Stilwell
Glenn Bonar	Gardner

The Charter Commission was empowered to conduct comprehensive studies of any or all phases of County government operations, including a review of the existing County Charter and major resolution of the Commission as they affect the operation of Johnson County government.

The Charter Commission first met hosted by County Chairman Ed Eilert on February 7, 2011, and elected officers on February 21, 2011. Officers included Frank Taylor, chairman; Jean Wise, vice chairman; Clay Barker, secretary; and Melanie Bacon, treasurer. Officers served as the Executive Committee and met most alternating Monday's to prepare agendas for the regular Charter Commission Meetings.

The Charter Commission adopted rules of order and agreed to follow Robert's Rules in addition to the adopted rules on March 7, 2011. The Charter Commission conducted two public hearings – the first at Olathe City Hall on March 28, 2011, prior to its review of County government, and the second on September 27, 2011, at the Sylvester Powell Community Center in Mission, after the presentation of specific proposals to be considered by the Charter Commission.

From April through August, 2011, the Charter Commission met on the first and third Monday afternoon of each month (except July 2, 2011) as a committee of the whole to receive input from County leadership and County agencies. Over the course of five months, Charter Commissioners received input from the following:

- County Manager Hannes Zacharias;
- All sitting Johnson County Commissioners;
- Johnson County Sheriff Frank Denning and Senior Sheriff's Department staff
- Former County Chair Annabeth Surbaugh;
- District Attorney Steve Howe;
- Judge Thomas Foster, Chief Judge of the District Court;
- Director of Corrections, Betsy Gillespie;
- Chair and Director of each of five independent County Boards:
  - Library Board;
  - Parks and Recreation Board;
  - Developmental Services Board;
  - Airport Commission;
  - Mental Health Board;
- County Auditor;
- Chief Legal Counsel Don Jarrett.

The Charter Commission developed a number of preliminary issues that were discussed and evaluated over the course of its deliberations:

- Should County Commissioners or the Johnson County Sheriff be elected on a partisan or non-partisan basis?
- Should appointed officials (County Clerk, Register of Deeds, County Treasurer) go back to being elected?
- Should the County Auditor be elected?
- Should the County Sheriff be appointed by the Board of County Commissioners?
- Should the County Jail be managed by the County Department of Corrections under the supervision of the County Manager?
- Should the Corrections Department be moved to the Sheriff's Office?

- Should the Sheriff's office take charge of the Park Police?
- What changes should be made in the appointment, supervision, and management of the independent boards (Parks & Rec, Library, Developmental Supports, Mental Health, Airport)?
- Should the number of County Commissioners be increased or decreased?
- What changes should be made to improve fiscal responsibility and implement efficiencies?

After a preliminary Charter Commission vote to prioritize suggested issues, committees were appointed to propose Charter Commission actions. The Charter Commission then deliberated and voted on several proposals:

1. A proposal to amend the County Charter to require partisan elections for Board of County Commissioners was defeated without debate by a vote of 9-14 on Monday, November 7, 2011. A motion to ratify that action was passed after extended discussion by a vote of 13-11 on November 7, 2011.
2. A proposal to amend the County Charter to expand the Board of County Commissioners from seven to nine members was defeated by a vote of 9-12.
3. A proposal to amend the County Charter to bar post-employment commitment to employees unless approved by the Board of County Commissioners was defeated by a vote of 6-15.
4. A proposal to amend the County Charter to permit a ballot initiative to repeal countywide sales taxes was defeated by a vote of 5-16.
5. A proposal to amend the County Charter to permit rollback of real estate taxes by initiative was defeated by a vote of 3-18.
6. A proposal to amend the County Charter to require certain disclosures of bonded indebtedness on County issued real estate tax bills was defeated by a vote of 9-12.
7. A proposal to amend the County Charter regarding procedures for the appointment of a replacement to fill a vacancy on the Board of County Commissioners was defeated by a vote of 5-15.
8. A proposal to amend the County Charter regarding the number of votes required by the Board of County Commissioners to submit a Charter amendment to the voters was defeated by a vote of 11-9 due to a lack of a simple majority of the entire Charter Commission, or at least 13 votes.
9. A proposed resolution recommending that the Legislature amend certain statutes to allow the Board of County Commissioners to override actions taken by the Parks and Recreation Board and the Library Board was

defeated by a vote of 12-11 due to a lack of a simple majority of the entire Charter Commission, or at least 13 votes. A proposal to rescind the action was defeated at a subsequent meeting by a vote of 10-11.

The Charter Commission also discussed several proposed Charter amendments of a housekeeping nature, but concluded that none had sufficient value on its own to warrant amending the Charter.

The Charter Commission also discussed a number of resolutions about the structure and management of County government and adopted three resolutions, copies of which are attached, intended to improve the function of County government:

1. A resolution recommending that the Legislature amend K.S.A. Section 45-221 to include the identity of persons making confidential reports to auditors among those whose identities are protected from disclosure under the Kansas Open Records Act. The motion to approve carried 14-7.
2. A resolution urging the Board of County Commissioners to explore and adopt a defined collaborative leadership plan to promote shared services with other Johnson County cities, towns and school districts. The motion carried 19-2.
3. A resolution recommending that the Legislature amend certain statutes to clarify the Board of County Commissioners authority to appoint and remove members of all statutory and such other boards, committees, and similar entities as deemed appropriate and necessary was approved by a vote of 16-5.

The consensus of a majority of the members of the 2011 Johnson County Charter Commission is that Johnson County operates well under the County Charter adopted in 2000 by voters. The Charter Commission recommends retaining a seven-member Board of County Commissioners elected on a non-partisan basis and the present County Manager form of government. Charter Commissioners discussed whether the County Sheriff should be elected on a non-partisan basis and whether the Sheriff's Department and the County Corrections Department should be combined or reallocated in some way. There were, however, no formal proposals to make changes in these areas. The 1999 Charter Commission and the Charter adopted by voters in 2000 establish a system of governance that works well for Johnson County and should be retained.

The County Charter provides for a minority report if it is deemed important. Certain Charter Commission members have submitted a minority report which is attached and to which they have subscribed their names.

SUBMITTED 01/31/2012.

**Resolution of the 2011 Johnson County Charter Commission**  
***Recommendation for Legislative Action***  
***Provide Protection for "Whistleblower" Reporting to Auditor***

WHEREAS, by Home Rule Charter, The Johnson County 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; and

WHEREAS, the County Auditor is governed by state statute which, in part, provides that, in Counties with population over 300,000, the county auditor shall: (a) develop, maintain and to update an internal audit program covering all offices and departments of the county at least once each year to include a review of each offices' or departments' responsibility and functions. The county auditor is authorized to audit any area where county moneys are spent either directly or indirectly including any grants, gifts or bequests received by the county; and

WHEREAS, on August 1, 2011, the Charter Commission interviewed the county auditor during which interview the auditor indicated that there is no formal process by which the auditor can receive confidential reports of malfeasance and the auditor cannot protect the identity of someone making such a report. The auditor felt it would be beneficial to implement changes that would allow him to protect the identity of those who report issues of malfeasance to his or her attention; and

WHEREAS, it is in the interest of the taxpayers and residents of Johnson County to ensure county officials, employees and others (hereinafter "whistleblowers") are able to report wasteful procedures or agency misconduct without fear of retaliation; and

WHEREAS, Whistleblowers reporting wasteful procedures or agency misconduct should be considered confidential informants; and

WHEREAS, Kansas open records statutes do not provide explicit protection for whistleblowers reporting to state, county or municipal auditors;

NOW, THEREFORE, BE IT RESOLVED that the Charter Commission shall recommend to the Kansas State Legislature that K.S.A. Sec. 45-221 be amended to include the identity of persons making confidential reports to auditors among those identities protected from disclosure under the provisions of K.S.A. Sec. 45-221i(5). Upon adoption by the Charter Commission, copies of this resolution shall be delivered to each member of the Johnson County legislative delegation.

BE IT FURTHER RESOLVED that the Charter Commission does hereby urge the Board of County Commissioners to act to support such an amendment and to communicate its support to the Johnson County legislative delegation;

BE IT FURTHER RESOLVED that the Charter Commission recommends that the Board of County Commissioners, upon enactment of the above statutory amendment, instruct the County Auditor to institute a reporting system wherein county employees or other persons conducting business with the county can report wasteful procedures or misconduct with assurance that their identity will not be disclosed.

**Resolution of the 2011 Johnson County Charter Commission**  
***Johnson County and Other Government Entities Shared Services***

WHEREAS, the charter provides the charter commission shall provide recommendations to include suggested changes in the administration of Johnson County Government, programs and activities.

WHEREAS, Johnson County Government provides numerous services paid for by the citizens of Johnson County;

WHEREAS, the organizational and operating structure of Johnson County Government should be consistent with the Johnson County Home Rule Charter Preamble, “to serve our present and future needs and for the people of this county to make changes in our own government”;

WHEREAS, it is in the interest of the taxpayers and residents of Johnson County for elected county officials to have ultimate oversight and control over the policies and operations of Johnson County;

WHEREAS, Johnson County residents pay taxes to the County which includes at least 25 other town and school districts to which these same residents pay taxes;

WHEREAS, the Matrix Consulting Group, hired by our County to evaluate the organizational structure for functions under purview of the Board of County Commissioners to identify alternative structures and recommendations;

WHEREAS, the Matrix Consulting Group recommended evaluating reducing redundancies or achieving synergies not currently realized;

WHEREAS, the Matrix Consulting Group recommended a research effort of other municipal entities in Johnson County to identify existing shared-services approaches that may be beneficial to Johnson County residents;

WHEREAS, the Matrix Consulting Group recommended an evaluation to be conducted with recognition of existing charter and regulatory restrictions but not allowing these to limit the consideration of best practice alternatives;

WHEREAS, significant long term adverse change in economic conditions coupled with rising costs and loss of jobs have created a new sense of urgency in the way we conduct our business with a need for sharing services among all of these entities;

WHEREAS, the role of Johnson County Government is to provide services to people who live in cities that don't have needed services as well as to people who live in the county but not In a city within the county.

WHEREAS, there is no defined collaborative leadership plan by any governmental entity within Johnson County to work in concert with other government entities and/or school districts, to provide better services at lower costs.

**Resolution of the 2011 Johnson County Charter Commission**  
***Johnson County and Other Government Entities Shared Services***

WHEREAS, Johnson County and all the cities and towns within Johnson County individually focus on looking forward toward continuous improvement and have the potential to work as a collective group.

NOW, THEREFORE, BE IT RESOLVED that the 2011 Charter Commission of Johnson County, Kansas, on behalf of the citizens of Johnson County, urges the Johnson County Board of Commissioners to continue to explore researching potential synergies and shared services in the form of a “defined collaborative leadership plan” among other Johnson County cities, towns and school districts. The primary focus should be to search for budget reduction opportunities and to maximize service levels for all citizens of Johnson County working together with representatives from each of the aforementioned entities with the Johnson County Chairperson as facilitator.

**Resolution of the 2011 Johnson County Charter Commission**  
***Recommendation for Legislative Action***  
***Clarification of BOCC Authority for Appointment and Removal to Boards and Committees***

WHEREAS, the Board of County Commissioners has authority under certain state laws to appoint members of certain statutory boards; and

WHEREAS, the state law with respect to the Powers of Board of Commissioners, KSA section 19-212, is silent with respect to any general authority to make appointments to boards, committees and other similar entities; and

WHEREAS, the Charter Commission has been advised that the authority of the Board of County Commissioners to remove any appointee, even for good cause, is unclear; and

WHEREAS, the Board's authority to make appointments to any body not explicitly set out in statutes establishing such body is not expressly granted to the Board under applicable state law; and

WHEREAS, the Charter Commission has considered and declined to adopt a resolution which, in part, sought to address the issue of removal of appointees only to the Parks and Recreation Board and the Library Board; and

WHEREAS, this resolution included provisions which if enacted into law would, in effect, have granted to the Board of County Commissioners the power to review and overrule policies and other actions of the Parks and Recreation Board and the Library Board; and

WHEREAS, the lack of clarity with respect to appointment and removal by the Board of County Commissioners may also pertain to other appointments made by the Board; and

WHEREAS, as the elected representatives of the people of Johnson County the Board must be empowered to exercise effective supervision of appointed bodies in County government;

NOW, THEREFORE, BE IT RESOLVED that the Charter Commission does urge the Kansas Legislature to enact an amendment to the Powers of the Board of County Commissioners, KSA 19-212, in substance and intent as follows:

“To appoint the members of all statutory and such other boards, committees and similar entities as deemed appropriate and necessary. Any other provisions of law or regulation notwithstanding, such appointees shall be: (a) appointed for specific terms as set out in statutes or, where not so specified, for such specific terms as set by the Board; and (b) shall be subject to removal, for good cause shown, by a majority vote of the Board. Removal shall be subject to the Board's findings and conclusions following an administrative hearing if such hearing is requested by the appointee for whom removal is being considered.”

BE IT FURTHER RESOLVED that a copy of this Resolution shall be provided to the Board of County Commissioners, accompanied by a request that the Board express its support for legislative action as described above to the members of the Legislative delegation from Johnson County.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be sent to the President of the Kansas Senate, the Speaker of the Kansas House and to each member of the Legislative delegation from Johnson County on behalf of the 2011 Johnson County Charter Commission.

## **Charter Commission Minority Report**

## MINORITY REPORT

SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS (BOCC)

*By Charter Commissioners Mike Pirner, Jim O'Connell, Eric Jenkins, Bernie Bianchino, Clay Barker, Melanie Bacon, Dwight Sutherland, Dennis Kriegshauser, John Resman, and Jeff Melcher*

### PREAMBLE

It has been a tremendous honor to serve on the 2011 Johnson County Charter Commission, a body created by the voters via their passage of the original Home Rule Charter by a vote of 55-45% in 2000.

Over the past 12 months, each of the 25 members of the Charter Commission had the unique opportunity to hear testimony from officials from many areas of County government, and then use that testimony, in coordination with input from the public and our own principles and opinions, to make recommendations for improvements in Johnson County government, up to and including possible amendments to the charter.

Two of us voted for the final report, and eight of us voted against it, for a mix of different reasons. However, we all agree on the fact that while the majority's report is indeed factual as a "play by play" of what occurred during the past year, each of us felt the report was insufficient in proposing recommendations for improvements to Johnson County government. In addition, we were quite disappointed that several of the proposals that were introduced were rejected, and feel they still deserve strong consideration by the BOCC.

For those reasons, we have opted to submit a minority report to convey our arguments in favor of the rejected proposals and recommendations, as well as our overall feeling on the direction Johnson County government should take over the next ten years.

In the case of charter amendments, the Home Rule Charter provides that the BOCC can submit such amendments to the voters by an affirmative vote of 6 of the 7 commissioners. As such, in several items below, we encourage you to ignore the decisions of the majority and forward these proposals to the voters for their consideration in November of 2012.

In the case of our other recommendations not requiring charter amendments, we strongly urge you to consider our arguments and take these ideas into consideration, and take appropriate action as necessary to follow up on them.

### PARTISAN ELECTIONS

The question of whether to have partisan elections for County Commissioners is clearly an issue that is closely divided in Johnson County. 12 years ago, both the Charter Commission (by a vote of 13-12) and the electorate (by a margin of 52%-48%) narrowly adopted a system of non-partisan elections.

For our entire history up until 2002, the election of County Commissioners was done on a partisan basis, and many of us felt it worked well. Now, for ten years, or five election cycles, we have had taste of non-partisan elections. Some like it. Some, however, do not. During the 12 months the Charter Commission convened, we have heard from a large number of people on both sides of this issue, but the predominance of people favored returning to partisan elections.

As such, even if for just the fact the sentiment is so strong on both sides of this issue among the citizens of Johnson County, we believe the Charter Commission made a mistake by refusing to give the voters an opportunity to either confirm their decision in 2000 or return to partisan elections.

In addition, while several of us presented our own separate arguments in favor of partisan elections – three of which are attached by Commissioners Bianchino, Kriegshauser and Pirner – we all believe partisan elections are important for the key reasons:

- County commission elections are the only contested August-November cycle election that is conducted on a non-partisan basis. This creates confusion amongst the voters.

- The American political system is based on a two-party system, which is intended to produce a clear contrast for voters in the general election. While not perfect, partisan elections help educate voters because they serve as a starting point from which voters can determine a candidate's basic beliefs. Given the large impact county government has on our lives, we believe the public should have a right to know the basic perspective from which candidates have aligned themselves.
- Non-partisan elections leave Johnson County Commission elections completely to Political Action Committees (PACs) and other outside groups which are often hard to identify as to intent and funding. While these groups would certainly exist in a partisan system as well, their influence would be at least partially offset by the involvement of the political parties.

We also want to specifically address the claim by Commissioner Kramer that partisan elections somehow are favorable to men over women or the claim by many that partisan elections somehow discourages a diversity of representation. In the last ten years, since the non-partisan system has been in place, there have been a great number of women elected to the state legislature, whose elections are conducted on a partisan basis. At one point, in fact, 4 of the 7 State Senators were women – currently, 3 are. We've also seen, at the state legislative level, a diversity of political thought – ranging from conservative to moderate to liberal. Among the Board of County Commissioners, however, only 2 commissioners elected under the non-partisan system have been women and currently, all seven commissioners are men. So, based on the evidence, we find Commissioner Kramer's claim without merit – the evidence actually points to the opposite.

For these reasons, we believe a ballot question should be placed on the ballot in November of 2012.

#### **EXPANSION TO NINE MEMBERS**

We support allowing the voters to decide on a charter amendment expanding the commission from 7 to 9 members. In 2000, the voters, by a 60%-40% margin, adopted a charter proposal by the previous charter amendment expanding the commission from 5 to 7 members. Since that time, the county has grown in population dramatically, and according to testimony by the County Manager, that trend is expected to continue over the next decade.

Currently, district populations are 92,000 in size. With no action, they will surpass 105,000 per district by the next time a Charter Commission is formed. Districts of that size risk becoming unrepresentative and too difficult for a candidate to campaign in without significant financial resources or name recognition, serving as a discouragement to qualified individuals who might otherwise want to run. This, in our view, is not healthy.

Some commissioners opposed to this measure said they didn't want to risk the commission becoming too large in the future to the point it was unwieldy or inefficient. That may be a valid concern, but the proposal voted on didn't expand the commission to a large number – simply from 7 to 9. Most of our cities in Johnson County have city council/mayor teams of at least 9 members, and commissioners familiar with that system indicated it worked well – so there seemed to be no concern that somehow 9 would be an unworkable number.

Given the population trends, and given the fact the voters supported, overwhelmingly, expanding the commission ten years ago, we feel that the voters should have had that opportunity again in 2012. Commissioner Pirner, who proposed the amendment, has attached his full remarks in support of expansion to the end of this report. We endorse his remarks.

#### **REDUCING THRESHOLD FOR ADOPTING CHARTER AMENDMENTS FROM 6 COMMISSIONERS TO 5**

Currently, there are only two ways to amend the charter – 13/25 votes from the Charter Commission, which only meets once every ten years, followed by a vote of the people; or, the County Commissioners, by a 4/5 margin (which translates to 6/7 commissioners), adopting the amendment, followed by a vote of the people. That bar is extremely high and we believe, too high. Also, it was clear that the 4/5 requirement was established at a time when there were only 5 commissioners.

A simple proposal that was rejected by the majority would have lowered the threshold from 4/5 (or effectively 6/7) to 5/7. While seemingly a minor change, for major proposals that would require a change in the charter, that one vote on a seven member body is not insignificant. Plus, while it would reduce the burden from 86%, the bar would still be high –

73% of County Commissioners.

It was discouraging that not even this simple charter change was adopted by the majority.

## **PARKS & RECREATION AND LIBRARY BOARDS**

One of the more troubling aspects of county government in Johnson County is that two of the most used, most visible areas of county operations – parks and libraries – are controlled by independent boards with limited or no accountability to the taxpayer. While appointed by the BOCC, both boards, particularly in this case of the Johnson County Parks & Recreation Board, have independent authority that cannot be checked by the BOCC, which are elected and accountable to the people.

Because these powers are given in state statute, a resolution was introduced urging the legislature to take action to address this and do two things – one, make it clear that any action by the two independent boards could be modified, rejected, or otherwise “checked” by the BOCC if it chose to do so; and two, clarify that the members of these boards could be removed for cause. While we were never able to gain the 13 required votes at one time to adopt this resolution, at one point or another, 14 separate commissioners voted in favor of it, and on the initial vote, it actually gained a positive 12-11 vote (13 were required to adopt it), signifying that a participating majority felt a deep concern about the way these boards are set up in relation to the overall structure of County government.

If the public actually comprehended the scope of the independent boards' power and activities, they may be much more supportive of tightened controls. These five boards, which are tellingly referred to as "governing boards" in the County Charter, control 36% of County expenditures in the 2012 budget! The Parks and Recreation Board is perhaps the most illustrative of the issue of lack of control by elected representatives of the citizens. It accounts for \$41.8 million of County expenditures all by itself and has the power of eminent domain, the power to put a general obligation bond issue on the ballot without BOCC approval, can accept donations of real property without BOCC approval, and can lease facilities without a competitive bid process. Parks and Recreation engages in a wide variety of "enterprise" activities, i.e. revenue generating ventures, without apparent oversight by the BOCC.

For example, the agency claims with pride that "Along with the YMCA, we are the largest childcare provider in the County..." In the same document making this claim, the agency provides its assurance that it makes "a conscious effort not to compete." How can a public, tax-supported agency conduct these kinds of activities without competing with private enterprise? This is but one example of where public policy should not be set by an unelected board which can be co-opted by management, and which tend to be advocates rather than overseers of agency operations. Keep in mind that this is the agency that allowed certain employees to live rent free in Parks and Recreation-owned housing without reporting the obvious imputed income to taxing authorities, subjecting County residents to liability for various potential claims including discrimination and taxes, interest and penalties.

While we were certainly glad that the resolution by Commissioner O'Connell dealing with the ability to remove board members was adopted by a majority, we still feel that the issue of independent authority needs to be addressed. As such, we urge the BOCC to review the attached resolution and consider making it a part of their legislative agenda in the future.

## **COUNTY SHERIFF**

We believe the County Sheriff should continue to be independently elected on a partisan basis.

## **FISCAL ISSUES**

The County Charter contains no constraints on the fiscal authority of elected and appointed officials. It is the first County charter drafted in Kansas and remains the only County charter in the State. Yet, with ten years of experience under the Charter, the majority could agree to no changes that would improve that seminal document to better address fiscal controls. It would appear that in the minds of the majority, the original Commission has created the perfect document.

Various Charter Amendments were proposed to address taxes, bonded indebtedness, and other fiscal issues. While each of us in the minority had our own separate individual opinions on these matters, we believed they deserved discussion and debate. Unfortunately, all of these proposals were defeated by Commissioners largely under the beliefs that, "If it is not broken, why fix it?"

We preferred to apply the principle: "if it's good make it better, if it's better, make it the best." To do that we must anticipate problems that other states and counties have encountered and attempt to avoid them.

Here is a summary of what we attempted to address:

An amendment was proposed to require the County to account for contingent liabilities, predominately the KPERS unfunded liability. It became clear in the proceedings of the Commission that this liability was being ignored by the County under its belief that it is a State responsibility. The KPERS annual report makes a much different assertion. After the issue was studied it became clear that the appropriate governmental accounting board will be issuing rules requiring agencies within government, including the County, to carry this item as a liability in the near future. Therefore, the amendment was withdrawn. If the accounting standards are not modified, the minority strongly believes that the County must adopt a system that accounts for this liability. If the County makes a promise to employees it must be in a position to keep that promise. And when the promise comes due, the State will have little choice but to seek the funding from the employer for whom the services were rendered. This is the system followed by private companies and it should be equally applicable to governmental agencies.

We proposed a charter amendment that would prohibit any County official from making a post-employment commitment to anyone without the approval of the BOCC. This was defeated narrowly by the majority, which seemed to quibble with the wording rather than address the substance of the matter. A legal opinion that found that the Charter may not declare an action by County officials to be "unlawful" was of particular moment in this discussion. If the voters, by Charter provision, cannot declare a practice to be unlawful, then why do we have a Charter?

Additionally, we believe that it is important to maintain some level of local fiscal control over the authority of County officials to ensure that representative government does not run amuck. Unfortunately, the majority, which by and large voted in a block, did not agree with this approach, preferring to ignore looming fiscal issues and trust that elected Commissioners and County employees will avoid the situations encountered by other governmental bodies.

Of particular concern was the refusal of the majority to even want to thoroughly discuss whether something could be done to increase citizen input on the burden of local option sales taxes and property taxes. Private employers are increasingly wary of high tax locales when deciding to place facilities. Johnson County is increasingly dependent on public and not-for-profit entities for its employment base and it may be pricing itself out of the running for many private employers in the years ahead.

Finally, for reasons that were not clear to us, the majority felt that fuller disclosure of the bonded indebtedness attributable to property was unnecessary even though it was determined that this would be difficult to ascertain under the current system where scores of agencies may impose debt on property owners.

If the County cannot determine the level of bonded indebtedness against a particular parcel of property, how can we ask taxpayers to vote on future bond issues? County officials advised the commission that the out-of-pocket cost of making this disclosure on each tax bill would be less than 50 cents, and the information would be valuable for our well-educated electorate.

Many cities and counties which are now under financial stress can only remember the bygone days when they had a AAA rating. It simply is not enough to pound our chest and brag about our current rating. Disclosure of the current level of indebtedness to our taxpayers could allow them to provide meaningful, cautionary guidance to future leaders and we suggest that the County commissioners seriously consider making the disclosure on tax bills in the future. If this is not done, we believe the taxpayers will soon realize the significant adverse effects of these debts and wonder why the Charter and BOCC did not require appropriate disclosure.

*Commissioner Bianchino added additional comments in the Appendix regarding his individual views on the proposed rollback on sales and property taxes.*

## **OTHER RECOMMENDATIONS**

One consistently debated point throughout the past year was the claim by some in the majority that the only responsibility of the Charter Commission was to review the charter and consider any possible amendments to the charter itself – which, as we noted above, they rejected consistently. Many in the majority used this “nothing but charter amendments” argument as a basis for opposition to additional recommendations to both the legislature, as in the case of the Parks & Recreation and Library Resolution, or even in the case of recommendations to the BOCC as part of the final report. In some cases, some in the majority indicated agreement with the principles of certain proposed recommendations, but still voted no based on this argument.

While we certainly agree that possible charter amendments were indeed part of our mission, we take strong issue with the majority’s continual contention that recommendations, short of charter amendments, for improvements to County government were somehow inconsistent with our mission.

To counter this argument, we would suggest that the majority read the document which created the Charter Commission in the first place – the Home Rule Charter itself. The fact is that the 2011 Charter Commission, and future charter commissions after this, exists because the Home Rule Charter, adopted by the voters in 2000, calls for it in a section entitled “Future Charter Commissions”. In this section, it provides for our task:

*“Each 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. On or before a date, which follows by one year the organization meeting of each Charter Commission, a report of the Charter Commission’s findings shall be presented to the Board of County Commissioners. **Such report shall include recommendations of the Charter Commission and such other information deemed important. Recommendations of the Charter Commission may include suggested changes in the administration of the County government, programs, and activities.** It may also include proposed amendments to the Charter. All recommendations of a Charter Commission shall be adopted by a majority vote of its membership.”*

Note the bolded portion we emphasize – it is very clear that the intent of the Home Rule Charter was to have the Charter Commission make recommendations in the administration of Johnson County government.

As commissioners, we took this provision seriously – for while some of our recommendations did include charter amendments, there are other recommendations that didn’t require charter amendments but are nevertheless quite important, from our vantage point, for the administration of County government.

Due to the fact we, as a commission, only met for two hours every two weeks, we didn’t have the time to dig into the details of every specific program within County government. Nor would it be necessarily appropriate for the Charter Commission to go on a fishing expedition looking for a specific problem in a specific department or agency.

However, in a County with a nearly \$1 billion budget, nearly 4,000 employees serving 550,000 residents, with services ranging from parks to libraries to mental health to basic government functions such as car registration, it would be hard to imagine there aren’t some inefficiencies, waste, or money being spent on programs that could be better or more appropriately performed by the private sector.

Furthermore, we also felt it was important to recognize the proper role of government in Johnson County as well as give recognition to the importance of the taxpayer in Johnson County. In an era of unemployment and fiscal uncertainty in our nation, we feel it is important for taxes to be kept low, or perhaps lowered, and for government not to delve into areas it should not.

As such, several of us proposed two recommendations that would address the issue of promoting limited and efficient government while providing a broad, common-sense framework from which a specific program could be examined by either the Board of County Commissioner or the County Manager. They are as follows:

### **COUNTY AUDITOR**

To ensure independence of the office, the undersigned members of the Charter Commission believe that the County Auditor should continue to report directly to the BOCC, and the undersigned members of the Charter Commission oppose any effort to have the County Auditor report to the County Manager. While the undersigned members of the Charter Commission do not believe an elected County Auditor is currently necessary, the BOCC should consider studying this issue if the effective independence of the County Auditor ever comes into serious doubt.

The undersigned members of the Charter Commission applaud the current County Auditor in his continuing efforts to find inefficiencies, waste, and other problems within County government; and encourage the BOCC to ensure the office has the resources necessary to continue and, if necessary, expand his work.

The undersigned members of the Charter Commission further believe that the BOCC should adopt all reasonable recommendations by the County Auditor to ensure there are provisions in place for whistleblowers to report problems within the structure of County government without fear, including but not limited to establishment of an anonymous hotline or similar provisions.

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### **ROLE OF GOVERNMENT / EFFICIENCY**

The undersigned members of the Charter Commission believe that the role of Johnson County government in the lives of Johnson County residents needs to be limited in scope, while operating with maximum efficiency in areas where it is involved.

As such, we encourage the BOCC to continue to review whether the system of government in place encourages both efficient and limited government, and review whether any particular County service is operating with those principles. In doing so, we encourage the BOCC to ask the following questions:

1. Is this program, service, or proposal necessary or a good idea?
2. If it is necessary, is this something the government should be doing?
3. If the government should be doing it, can we afford it?
4. If we can afford it, is it being performed with maximum efficiency?

Furthermore, we encourage the BOCC to pursue policies which involve minimal intrusion into the lives of the people, including the areas of property rights, taxation, and regulation.

Where possible, we encourage the BOCC to explore ways to reduce the tax burden on Johnson County residents; or at the very least, ensure the tax burden is not increased.

Finally, we strongly encourage the BOCC to work with the County Auditor and the County Manager to explore ways to reward county employees for finding waste and improving efficiency within County government.

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We were surprised and disappointed that the majority of Charter Commissioners felt the above recommendations were not worthy of adoption. Nevertheless, we feel that the BOCC should review these ideas carefully and consider implementing the specific recommendations contained within them.

**ADDITIONAL COMMENTS:**

The unspoken, but apparent, philosophy of many Charter Commission members was that if there was no current or past crisis with any aspect of County government no action should be taken. This attitude was often manifested by the question "has the BOCC addressed this matter?" Totally rational actions that are clearly in the interests of all County residents and which should be without dispute were voted down on wholly specious grounds that their adoption would imply some neglect or malfeasance on the part of "dedicated county employees" and the current BOCC members. It perhaps can be reasonably argued that the amendment proposed with respect to retaining the Sheriff as an elected position and the amendment to tighten up on control of the "independent boards" are subject to legitimate differences of opinion. However, in our opinion, there cannot really be legitimate opposition to statements urging a focus on efficiency in County government and urging preservation of the independence and effectiveness of the Auditor.

There was even some discussion about recommending a Charter amendment that would do away with the provision for future Charter Commissions. The clear indication coming from this proposed action was that those in the majority, and those who support them in the Press and elsewhere, were trying to make amendment of the Charter virtually impossible.

While this effort did not gain any traction, to guard against this happening in the future, we believe KSA 19-2681 should be amended to make Charter Commissions mandatory and not have it simply be a matter up to the Home Rule Charter.

In many ways, the 2011 Charter Commission was a missed opportunity – a missed opportunity to allow the voters of Johnson County to determine closely divided and key questions regarding the setup of County government; a missed opportunity to make important recommendations to improve the structure of County government; and a missed opportunity to state clear time-tested principles that should govern the administration of County government.

Sincerely,

The undersigned Charter Commissioners

**Mike Pirner**

**Eric Jenkins**

**Dennis Kriegshauser**

**Jim O'Connell**

**Jeff Melcher**

**Melanie Bacon**

**Dwight Sutherland**

**Clay Barker**

**Bernie Bianchino**

**John Resman**

## **APPENDIX**

### **COMMENTS BY BERNIE BIANCHINO IN SUPPORT OF PARTISAN ELECTIONS**

I introduced the Amendment to return to partisan elections based on views expressed by commenters at our first public hearing. While, personally I had mixed emotions on the issue, it seemed to me at the time it was worthy of discussion and a vote by the electorate since ten years of non-partisan elections could be considered by the voters in contrast with the years of partisan elections that had preceded adoption of the Charter.

During the Commission's discussion of this topic, it became clear to me that the adoption of non-partisan elections ten years ago allows candidates to hide or otherwise obfuscate their party affiliation. The Commission voted against an amendment by Commissioner O'Connell which would have required that the party affiliation of candidates be listed on ballots after receiving an opinion that this would be illegal under state election laws. The Commission chose not to seek advice from either the County Election Commissioner or the Secretary of State on this issue.

As importantly, the Commission seemed to ignore the comments by a County election official who came to one of our meetings on his own accord to advise us of the confusion caused by having partisan and non-partisan ballots for the same election.

The majority seemed to give great weight to the comments by orchestrated opposition at our second public hearing which was held after a list of issues had been produced and unfavorable press reports had been circulated. While I considered these comments, I found them no more convincing than the comments at our first public hearing which were made by interested members of the public at a very early stage of our proceedings. The voters seemed to be divided on this highly-charged topic.

In the end, it was unfortunate, but not completely unexpected, that the majority decided to substitute its judgment for that of the voters on this issue. I have faith in the judgment of our voters and would have let the well-informed electorate of Johnson County reconsider this issue.

### **COMMENTS BY MIKE PIRNER IN SUPPORT OF PARTISAN ELECTIONS**

Mr. Chairman, I speak in strong support of the proposal to give Johnson County voters the option to return to partisan elections for county commissioners.

As many here are aware, at the last Charter Commission in 2000, the proposal to make Johnson County the only county in Kansas with non-partisan elections for its commissioners was a sharply debated issue, only passing the commission by a vote of 13-12 on a secret ballot, placing the issue before the voters. There too, it was a close vote, only adopted by a 52%-48% margin.

For our entire history up until 2002, the election of county commissioners was done on a partisan basis, and many of us felt it worked well. Now, for ten years, or five election cycles, we have had taste of non-partisan elections. Some like it. Some, however, do not. We have certainly heard from a large number of people on both sides of this issue. As such, I believe the voters, in 2012, should have the opportunity to either confirm their decision in 2000 or return to partisan elections.

While they are certainly not perfect, I believe in partisan elections because they serve as a starting point from which voters can determine a candidate's basic beliefs. Political parties, after all, are not merely collections of individuals meant to elect candidates – they are, in theory, representative of a certain belief system that will largely guide how someone views the role of government in people's lives, including but not limited to public services, taxation, property rights, and a myriad of other issues. Given the large impact county government has on our lives, from parks to libraries to taxes to health facilities to the operation of county government itself, I believe the public should have a right to know the basic perspective from which a candidate comes from, even if they know nothing else.

Furthermore, from my own experience, I believe non-partisan elections have created confusion in the electorate. As the only contested election on the August and November ballots which is non-partisan in nature, many voters ask the candidates which party they belong to, anyway, and I've yet to hear a candidate say in response to such a question "well, I'm non-partisan" – the voters still want to know your party, for the very reasons I said before – it signifies a certain belief system.

So, let's be clear – the term "non-partisan" is a misnomer. Not only do candidates end up being defined by their party anyway, non-partisan elections essentially invite a system of hyperpartisanship, as Commissioner Barker has suggested, where every independent group weighs in in order to fill the vacuum created by the lack of involvement from the two major political parties. Defenders of the non-partisan system are correct in stating that such groups will still be involved in a partisan system, but the point here is that there is no avoiding partisanship, no matter which system you select.

However, returning to partisan elections will help ensure the voters in the highest turnout election -- November -- have a distinct choice of which philosophy they prefer – whereas non-partisan elections, due to the traditionally low turnout among Democrats in August, can quite easily produce two general election candidates who largely agree, potentially leaving a large number of voters without a choice who adequately reflects their views. Our political system, particularly in the August-November election cycle, is based on giving the voters two distinct choices. I believe county commission elections should be consistent with that.

Finally, as someone who believes strongly in our two party system, I would simply state that there is nothing wrong with "being partisan". Being partisan simply means you simply have a set of core principles you believe in and advocate for. Most of us, in truth, **are partisans** – for an idea, a cause, a set of principles, or perhaps a party that represents those principles. Removing party labels doesn't make us non-partisan, **it simply allows us to more easily conceal what we're partisan about.**

For these reasons, I believe that the voters should have the opportunity to vote on this issue next November.

#### **COMMENTS BY DENNIS KRIEGSHAUSER IN SUPPORT OF PARTISAN ELECTIONS**

For me, this is an issue of having open and transparent elections (those where the political party is declared).

- The "Final Results" of our Charter Commission's initial vote of whether to proceed to "Consider changing the charter to allow partisan election of County officials": 13 Yes, 12 No. What happened since that time and the vote at the last meeting? Apparently people can and do change their minds regarding this issue!
- Fiscal Note = no increased cost to County according to Mr. Brian Newby. I believe reduction in cost possible given that political parties have to elect replacements.
- Mr. Don Jarrett = no legal issues with going back to open and transparent elections.
- Mr. Brian Newby advised this Charter Commission that open and transparent elections, where political parties are declared, actually makes it easier to administer unaffiliated voters showing up at the August election. There would be less confusion with "partisan" elections. In other words, "non-partisan" elections create more confusion and make the August elections more difficult.
- Johnson County is the only county in Kansas that does not currently have open and transparent elections?
- Replacements for departing Commissioners: Under the political party system, more people involved in selection of the replacement, and the process more closely approximates the original election concept (e.g. – replacement by election where the candidates "campaign", and precinct committeepersons from the same district vote). Some feel that replacement of a Commissioner by the Commissioners could be "stacking the deck".
- It was a close vote last time: of 180,456 persons voting, 93,438 (51.7%) for and 87,018 (48.2%) against. Difference of only 6,420 votes (3.5%). Lots of "water under the bridge" since that last decision and many aspects of the County have changed. This Charter Commission does NOT decide the issue, only whether or not to let the

voters consider this very divisive issue again for the next 10 years. Why not let the people consider this issue? Issues, candidates, etc. often come before voting bodies more than once.

- Folks approaching this Charter Commission with an opinion (considering two public forums, petitions, and emails) are about 2:1 FOR open and transparent elections where the political party is known.

#### **COMMENTS BY MIKE PIRNER IN SUPPORT OF EXPANDING COMMISSION FROM 7 TO 9 COMMISSIONERS**

Mr. Chairman, thank you. I first want to thank the 13 individuals who originally cast votes in favor of looking at this idea in more depth, and I appreciate all of you for giving me the opportunity to make the case for it today.

As you all know, I have been advocating for this idea since this commission was formed. However, in the intervening time, I have had several members of the community open-minded to the idea ask me whether it was truly necessary.

One reason I did not move to debate this measure until today was that I wanted to take a second look at the issue, and consider some of the potential objections individuals have raised and ensure this concept was consistent with the principles I stand for, and most importantly, whether it would truly improve Johnson County government.

In doing so, I reviewed several factors, and have come to the strong conclusion that this proposal deserves to be forwarded to the voters, because I believe for reasons of representation, accountability, and accessibility that an expanded commission would better serve the people of this great county.

The first key reason why I support expanding to 9 commissioners is because I believe it will make the Board of County Commissioners more representative. You've all heard my math equations. Currently, the commissioner districts are approximately 92,000 in size. If we do nothing, by 2020, the districts will be around 105,000 or more. If we, however, expand the commission to 9 members, the population in each district will be at 80,000 in 2020, a more reasonable number and about what they were in 2000.

I understand that in a county of this size, districts will always be fairly large, but it strikes me that districts of 100,000 people or more will make effective representation difficult. Remember, local government, by definition, is supposed to be closest to the people -- that is to say, representing a community of interest represented in a relatively contained geographical area. As this county grows, I think it is important for the county commission to reflect that growth and the diversity of views within the community. While it is by no means a guarantee, one way to encourage views with the county are adequately represented – both ideological and otherwise – is by having enough commissioners while still being at a reasonable enough level to allow the commission to conduct meetings smoothly and efficiently. I believe 9 is a reasonable number.

The second reason I support increasing expanding to 9 commissioners is because I believe it will encourage accountability within county government.

Earlier this year, a longtime resident of this community sent me a copy of the Minority Report from the 1976 Charter Commission, in which then Charter Commissioner John Hodges noted there are philosophical and historical reasons for having elective positions strategically placed within county government, noting it is not wise to move too far towards a system of government controlled almost exclusively by appointed “professionals”.

I concur with this assessment. While I don't propose to restore the elected positions done away with ten years ago, I do believe that two more sets of elected eyes – directly accountable to the taxpayer – is a wise move in a government that has nearly 4,000 employees and an \$800 million budget.

And while I applaud recent efforts by our county government to look for cost savings and ways to make county government more effective, I believe we need to encourage this not only when revenues are shrinking but on a continuing basis – and with two more sets of elected eyes, it is more likely that difficult questions will be asked that

need to be asked, that new ideas will be proposed that that should be proposed, and that even core considerations such as the role of government in people's lives are given a hearing.

For example, perhaps a new commissioner, prompted by knowledge he or she is given from within county government, might even ask the question "is this position in this department really necessary?" or "Is there a way to reward employees for finding potential new efficiencies and reporting those to the commission?" or "Could this task be done more effectively and inexpensively done by the private sector?"

We, here at the Charter Commission, have tried to ask some of those questions over the past few months. However, we are not in a position to truly know, mainly because of our limited time to do so, but also because we have been asking those in charge, who are obviously going to provide us the best story possible, and largely, we have been given positive reports.

While it is indeed my observation that most of county government probably operates pretty well, it is hard to believe to me, in a county government of this size with all the functions it performs on behalf of the people, that there are not some improvements that could be made. One way to discover such areas is by having two more people, elected by the voters, asking the tough questions and who are motivated, because they are accountable to the voters, to find areas of improvement and then demand change.

The third major reason I support expanding the commission is accessibility. By accessibility I mean in the political realm, so that the commission is not off limits to those who don't have a large amount of name recognition and/or access to a large number of donors who can fill their campaign accounts.

In my view, a local government district needs to be able to be walked in a reasonable period of time by a candidate who files in June, and local elections should not be off limits to candidates who haven't previously garnered identification with the electorate. Otherwise, we are essentially requiring candidates NOT to spend their time talking to the voters, but to spend time raising money in order to pay for the mailers to reach such large districts, I don't think such a system is healthy for our representative form of government nor will it encourage good people to run. Smaller districts will ensure that the districts remain walkable and accessible to new candidates.

Before I conclude, I want to try to answer a few of the objections some have raised about this proposal:

The first objection was raised by Commissioner Eilert – and other commissioners -- who have said that two new commissioners are not needed because the current workload and level constituent communication is not very much, essentially saying that they can handle all the input they currently receive.

I'd like to note, first of all, workload concerns have never been a part of my argument, but if their workload isn't particularly high, perhaps we should ask ourselves why they're getting paid \$75,000 a year in salary and benefits?

Second of all, however, perhaps we need to look at *why* they don't receive very much constituent communication. Commissioner Eilert speculated that the reason was because many services are provided by cities and thus there is not much reason for a citizen to call. And, perhaps that is indeed part of it. However, I would also note that there is not much media coverage of the commission's activities, and also, unlike at the state and federal level, the commissioners do not regularly send out newsletters about their activities. As a result, voters don't know what's going on – and so they don't have anything to write about.

Remember, constituent communication is a two way street – not just from the citizen to the commissioner but from the commissioner to the citizen, and I can speak first hand as someone who has worked as an intern in a federal office and currently for a State senator, that its often those media stories and newsletters that generate letters and phone calls.

Larger districts, however, will make "newsletters" cost prohibitive. A newsletter, or even a postcard referencing a website, costs several thousand dollars to send out, and that will only increase as the districts increase in size. Smaller districts will help encourage such communication because one, it would be cheaper to mail a newsletter, at least to a

portion of the district, and second, it would be easier for a commissioner to walk his or her district and collect email addresses to distribute an e-newsletter – which is something several state legislators have done, in fact.

A second objection raised was the fiscal note.

On the one-time expenses, I would simply encourage you not to make a decision to expand or not expand based on moving walls and buying a couple desks. Regarding salaries, I've noted before this could easily be addressed by reducing the salary of a district commissioner so that the new line item was either neutral or much smaller, but even if salaries were to remain the same, I believe for the reasons I stated before – representation, accountability, access – that the small increase in cost related to salaries would be worth it.

A third objection is that Sedgwick County, which is similar in size, has only 5 commissioners and that there are similar counties in the country which have fewer commissioners.

First of all, related to Sedgwick and other Kansas counties, if consistency with other Kansas counties is your argument, perhaps we should revisit partisan elections, because as we know Johnson County stands alone in that area. Also, it's important to note that the growth rate here is much larger than in Sedgwick – in 2000, we were about 7,000 smaller than Sedgwick – now, we are nearly 50,000 residents larger, and it is our growth rate that is a central part of my argument.

Secondly, related to both Sedgwick and other counties in the country, I would simply state if I was a charter commissioner in those counties, I would be advising they add commissioners as well. Simply because they have districts way out of whack population wise doesn't mean we should, too.

Finally, there are also counties in this country with larger commissions – Knox County in Tennessee, which has 430,000 residents, has 11 commissioners; Mecklenburg County in North Carolina, which has about 900,000 residents, has 9. Jackson County, just across the state line and which has a population roughly what ours will be in 2020, has 9.

Also, in many counties across this country which only have 5 commissioners, there are several other elected officials, thus lessening the need for more commissioners. For example, in El Paso County, Colorado, where Colorado Springs is located, a county similar in size and in growth rate to Johnson County, there are just 5 commissioners – but in addition to the District Attorney and Sheriff, there are actually five additional countywide elected officials. It is partially because we don't have as many countywide elected officials that I favor this proposal.

The point is that there are a variety of different sizes and structures for counties around the country, and that there is nothing out there that says to me that two more elected officials in a large county like ours, with only two other county wide elected officials, would be a bad thing.

Finally, the final concern raised regarding this proposal is that we may have to expand the various appointed boards by a couple more members. After thinking about this, I would argue that this is not a bad thing – these boards perform important functions, whether they be advisory or policy wise, and I think increasing the opportunity for more of our citizens to get involved and make a difference is a good thing, and not something to fear.

In conclusion, I want to thank the commission again for giving me the opportunity to fully explain the reasons behind my proposal and to answer some of the concerns.

11 years ago, the voters supported an expansion with 60% in favor. I respectfully ask you put this question before them again in 2012. If they are happy with seven, they'll stick with that number and that is fine. But, I feel the reasons for considering 9 are compelling enough to ask them again. Thank you.

**Resolution of the 2011 Johnson County Charter Commission**

Originally Proposed by Jim O'Connell, Mike Pirner & Eric Jenkins

*As Amended by the Drafting Committee*

**Whereas**, the Johnson County Parks & Recreation Board and the Johnson County Library Board are important county departments paid for by county tax dollars;

**Whereas**, both boards are used by countless county residents and provide important services to all residents of Johnson County;

**Whereas**, the task of the Charter Commission is to review all operations of county government, which does include the Parks & Rec Board and Library Board, and make recommendations for changes in such operation;

**Whereas**, the operation of these boards is in, large part, governed by state statutes by which the Charter Commission, through the Johnson County Home Rule Charter, or the Johnson County Board of County Commissioners, through policy changes, have limited ability to reform or control;

**Whereas**, it is in the interest of the taxpayers and residents of Johnson County for elected county officials to have ultimate oversight and control over the policies and operations of these boards;

**Whereas**, efficient government demands clear and consistent lines of authority and responsibility between appointed boards and the elected Board of County Commissioners;

**Now, Therefore, Be it Resolved** that the Charter Commission believes the Johnson County Parks & Rec Board and the Johnson County Library Board should continue to exist as appointed entities with the responsibility of policy recommendations, oversight and management over the agencies they represent;

**Be It Further Resolved** that the Charter Commission also finds that the ultimate authority over policy and management decisions shall lie with the elected Board of County Commissioners, who have direct accountability to the voters of Johnson County and whom appointed the members of said boards;

**Be it Further Resolved** that the Charter Commission urges the Kansas State Legislature to adopt changes to state statutes that would clarify that members of the Johnson County Parks & Rec Board (Statute 19-2863) and the Johnson County Library Board (Statute 12-1222) may be removed by the Johnson County Board of County Commissioners prior to the end of their term for cause, defined as reasonable assessment that the individual under discussion for removal from the board has committed an act of malfeasance or nonfeasance, done something illegal, used their position of public trust to leverage personal gain, or committed an act of significant moral or ethical disrepute. The person in question would be entitled to an administrative hearing.

**Be it Further Resolved** that the Charter Commission urges the Kansas State Legislature to adopt changes to state Statute 12-1225 that would allow the elected Board of County Commissioners, through their own policies or through the Johnson County Home Rule Charter, to have the ability to review, amend or modify, endorse, or override all policies and actions adopted by the Johnson County Library Board, providing such policies are in accord with other applicable state laws.

**Be it Further Resolved** that the Charter Commission urges the Kansas State Legislature to adopt changes to state Statutes (19-2859 – 19-2881b) that would allow the elected Board of County Commissioners, through their own policies or through the Johnson County Home Rule Charter, to have the ability to review, amend or modify, endorse, or override all policies and actions adopted by the Johnson County Parks & Rec Board, including the ability to levy taxes, issue debt, call elections, to condemn property or use the power of eminent domain, and all other policies related to Johnson County Parks & Recreation, providing such policies are in accord with other applicable state laws;

**Be it Further Resolved** that upon adoption by a majority of the 2011 Johnson County Charter Commission, that this resolution shall be sent to the President of the Kansas Senate, the Speaker of the Kansas House, and each member of the Johnson County delegation in the state legislature, with a carbon copy sent to each member of the Board of County Commissioners, each member of the Parks & Rec Board, and each member of the Library Board.

## ADDITIONAL INDIVIDUAL COMMENTS BY MEMBERS

### **Commissioner O'Connell:**

The "913" insert (Johnson County section) of the Star recently noted that there is a lack of younger leaders in Johnson County, basically commenting that Ed Eilert and others have been around a long time. One of the underlying issues leading to the short-sighted philosophy described above is the makeup of the Charter Commission. Opposition to such proposals as a Charter amendment to provide a full, public process for the filling of a BOCC vacancy by the mayors, with some mayors noting that they have unilateral authority to nominate a replacement for a departing city council member, demonstrated a protective attitude toward governmental prerogatives. It is the "we know best, so just sit down and be quiet" attitude. The fact is that the mayors were over represented on the Charter Commission with four mayors instead of the statutory provision for three and supplemented by the inclusion of another mayor's wife. These attitudes and approaches are not likely to correct the problem of no new leadership noted by the Star.

### **Commissioner Bianchino:**

Of particular concern was the refusal of the majority to give the public the right to vote on whether initiatives could be proposed to eliminate local option sales taxes or to roll back property tax increases. Taxes have risen significantly in the County over the last ten years. Indeed, cities in the County now have a sales tax burden which rivals major cities such as New York and Los Angeles. Under the current system, once voters have voted to impose local option sales taxes, future generations have no right to repeal the tax. Moreover, the majority decided not to address the basic infirmities in the property tax system in a market of decreasing property values which will inevitably lead to increased mill levies which, by their nature, lead to further declines in property values. Taxes will become a major issue over the next ten years and we have failed to give the taxpayers any right of redress.

### **Commissioner Pirner:**

I largely view the 2011 Charter Commission as a giant missed opportunity. I was surprised that so many of my colleagues on the commission, despite their years of tremendous service to this county and immense knowledge gained as a result, had so few comments to offer and no proposals or recommendations to improve county government. While I may not have agreed with every idea they might have had, I believe the people of Johnson County would have benefitted from more ideas, more proposals, and more recommendations to improve county government, both in terms of its core structure and also how it could better be administered to ensure the taxpayer's dollar is valued and respected.

Unfortunately, the last twelve months seemed to be, in large part, an attempt by the majority to play defense – that is, to not allow any proposal, no matter how closely divided in the public, no matter how common sense, to be voted on by the people of Johnson County. Key questions such as partisan elections and the size of the commission – issues decided by the voters previously – were common sense ideas that deserved a vote of the people.

So, it is my sincere hope that the elected Board of County Commissioners might consider the recommendations of the minority and at least explore these issues. The fact that 10 members of the commission signed this report should demonstrate that these views, while not held by a majority on the Charter Commission, are indeed noteworthy and should be taken seriously.