



## Full Story

### **Convention reaches for consensus**

#### **Legal counsel guides delegates through draft constitution wording**

**By MEGAN POINSKI**

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ST. CROIX - From outward appearances, it looks like delegates to the Fifth Constitutional Convention have few ideas in common about governance.

Convention legal counsel Lloyd Jordan circulated a four-column chart at Friday's convention session to demonstrate that idea just is not true.

One column contained the text of the constitutional draft passed by a majority of delegates at convention sessions since 2007. One column contained the same information, redrafted in proper constitutional language by Jordan. One column contained the draft constitution written by delegates to the Fourth Constitutional Convention in 1980. One column contained the alternative constitutional proposal written by delegate Eugene Petersen.

"What I found going through this exercise is you are so close to consensus," Jordan said. "You are so close to where you need to be - provided you understand that you are doing the will of the people, not concentrating on things to fight over."

Jordan said that across the board, most of the big ideas for governance articulated in all of the constitutional drafts are the same. There are a few major issues, but delegates agree more than they disagree.

Even though the convention had a quorum for most of the day on Friday, delegates spent the session in Lawaetz Legislative Conference Room working as a committee of the whole. Jordan led delegates through the comparative chart, offering his recommendations on areas where delegates did not agree. Several consensus votes were taken throughout the day to set a course for the path delegates wish to take to complete the document. During the daylong session, Jordan and Convention President Gerard Luz James II urged delegates to have a spirit of compromise to come up with a draft document that can win the support of the entire convention, Congress and the White House and the territory's voters.

James said Friday night that the body may hold another session next week to cast

official votes on some of the items that they came to a consensus about on Friday.

### **Defining native Virgin Islanders**

One of the most controversial portions in the draft constitution is an article dedicated to defining native Virgin Islanders. Since the convention began in 2007, the need to insert definitions for native Virgin Islanders - and the specific need to leave those definitions out - has been debated at a number of committee meetings and sessions.

Delegate Lois Hassell-Habtes held up a small book of facts about the U.S. Constitution that another delegate gave her.

"According to this book, one of the weaknesses of the Articles of Confederation is that it refused to identify the origins and history of its people," Hassell-Habtes said. "We cannot refuse to identify the origins of our people. We have to take the bull by the horns at some point. This is our time."

Delegate Gerard Emanuel said that the definition must be placed in the constitution in order to help preserve pride in the islands, as well as the culture and heritage of the territory. This is a war, he said, and lack of recognition of the native-born on the islands has led to several rebellions from slave days to the Fountain Valley massacre in 1972.

Delegate Craig Barshinger, who does not have ancestral roots in the Virgin Islands, said that he understands the desire to include these definitions in the constitution. However, he said, many people who cannot trace their bloodlines back in the territory feel like definitions like this discriminate against them.

"I will go for putting it in, but we need to assure people that it will never be used against them as a weapon," Barshinger said.

Emanuel said that the discrimination argument against the definitions is baseless.

"To say that we cannot discriminate in a constitution is ludicrous," Emanuel said. "The U.S. Constitution is replete with discrimination." Emanuel went on to cite U.S. Constitutional amendments that apply only to groups of people, like the amendments that repealed slavery, allowed women the right to vote, and granted electoral votes to Washington, D.C.

Most of the delegates enthusiastically raised their hands to support placing the definitions in the draft constitution.

### **Native-born governors**

In addition to a definition of native Virgin Islanders, many delegates want to limit the territory's two top elected offices to people who were born in the territory. Legal counsel Jordan said he understands how important this issue is to some delegates, but he

advised them to get rid of it because it will be a major obstacle in getting federal government approval of the constitution.

"I have done extensive research. I cannot find one thing that supports where you want to be," Jordan said.

Regardless of Jordan's warning, more hands raised to keep the native-born requirement in the draft than to take it out - though the numbers of people who supported it and were against it was very close.

Delegate Emanuel said native Virgin Islanders are an endangered species. If provisions are not placed in the constitution to protect their culture and way of life, outsiders moving to the islands just to make money, will supplant them, Emanuel said.

"If we can't protect our people, we don't deserve to be here," he said.

Jordan urged delegates to instead strengthen provisions in the constitution to protect and honor the territory's history and culture.

Delegate Violet Anne Golden said the territory's longest-serving elected governor, Juan Luis, was not born in the territory. He put the territory's people first, she said, noting that other people who live in the territory and devote themselves to public service are the same.

"Here in the Virgin Islands is a shining example of democracy, where everyone can run for office no matter what their background, where they are from," Golden said.

### **Definition of marriage**

Delegates have been debating whether the constitution should define marriage as the legal union between man and woman. After several votes, delegates' most recent decision on the matter was to include the marriage definition in the constitution.

Legal counsel Jordan said that might not be a good idea, especially since many state constitutions that define marriage as between a man and a woman are being challenged - and struck down as discriminatory. Jordan suggested they just leave the item out of the constitution for now.

"This is an issue you can come back to," Jordan said. "You can do it by legislation, you can do it by initiative, but you can get to it."

Delegate Violet Anne Golden pointed out that the V.I. Code already has a definition of marriage. Placing it in the territory's constitution would get nothing more accomplished, especially since the provision could be overturned by federal courts.

Delegate Wilma Marsh Monsanto, who has championed placing the definition in the

constitution, reminded her colleagues that they have received petitions with more 1,000 signatures asking for the definition to be in the constitution. The petitions were mainly circulated at the territory's churches.

"If you take this out, individuals will go to vote for this, and they will vote no," Monsanto said. "We had testimony about this from many many people. We should put in the people's will. We should not put in a constitution to be defeated. If it will not go in, it will fail."

Many delegates disagreed. Delegate Arturo Watlington Jr. said his feelings on the marriage definition are completely opposite of Monsanto's. Many others may agree with him

"If you are trying to develop consensus - not only among us, but among a majority of the people in the Virgin Islands, you have to take the approach to develop a consensus," Watlington said. "For you to say marriage shall be between a man and a woman, you're going against those who believe the other way. But you gain by being neutral and not saying anything about it."

## **Senate**

Delegates hashed out several issues dealing with the name, composition, and allowable behavior of the senate on Friday.

Delegates agreed the body should officially be called the Senate - as opposed to generically calling it the legislature.

"It's like 'bathroom tissue' versus Kleenex," delegate Douglas Brady said.

Most delegates also supported keeping the number of senators at 15. But the biggest discussion had to do with whether future senates would be permitted to have lame duck sessions. The draft passed by delegates contains that prohibition, which delegate Eugene Petersen said was inspired by the community's anger at a bill that made many controversial moves - including granting massive raises to senators and the governor and lieutenant governor - in the waning hours of the 26th Legislature.

Delegate Mary Moorhead said that she could not support forcing the Senate to sit and do nothing for two months, especially when they are being paid to do a job. Moorhead pointed out that the lame duck period cannot be reduced; current election process does not allow the newly elected Senate to be sworn in any earlier.

Delegate Craig Barshinger, who is also a senator, said lame duck sessions are problematic because there are no more checks and balances. He said he would support removing the prohibition, but hopes the convention can come up with another way to solve the issue.

"You can still cause a lot of mischief if you can't go into session," Barshinger said.

Delegate Arnold Golden, a former senator, said that the constitution does solve the issue through the powers of initiative and recall.

"If you don't like an initiative that's been passed, you repeal it," Arnold Golden said. "You don't like an official, you think he's a crook, recall him."

Most delegates supported removing the prohibition.

### **Other items**

Delegates came to a consensus on other issues Friday, including:

- Not electing the attorney general or auditor general.
- Electing the governor and lieutenant governor as a team.
- Centralizing all court administration under the V.I. Supreme Court.
- Emphasizing that public education will teach African and Caribbean history.
- Freezing property values for tax assessment purposes when property is not sold.
- Contact Megan Poiniski at 774-8772 ext. 304 or e-mail [mpoiniski@dailynews.vi](mailto:mpoiniski@dailynews.vi).