

**CITY OF WINTER GARDEN
CHARTER REVIEW ADVISORY COMMITTEE
MEETING MINUTES
September 12, 2006**

The Winter Garden Charter Review Advisory Committee meeting was called to order by Facilitator Marilyn Crotty at 6:30 p.m. at City Hall, 251 West Plant Street, Winter Garden, Florida.

ATTENDANCE/ROLL CALL

MEMBERS PRESENT:

Derek Blakeslee
Erma Dennard
Blair Johnson
Ed Lynch
Don Miller
Richard Napotnik
Pamella Stewart
Bert Valdes

MEMBERS ABSENT:

Barbara Muzeni

Facilitator:

Marilyn Crotty

Also Present:

Assistant City Attorney Dan Langley and Giffin Chumley
City Clerk Kathy Golden (*Left at 6:35 p.m.*)
Assistant City Clerk Angee Grimmage

1. WELCOME

2. APPROVAL OF MINUTES – AUGUST 22, 2006

It was the **consensus** of the committee that the minutes of August 22, 2006 be approved as printed.

3. PUBLIC COMMENT

Ms. Crotty opened the meeting for public comment; hearing and seeing none, she closed the public comment session. Ms. Crotty stated that it was agreed that public comment would be offered at the beginning and end of the meetings and offered the attending citizens the opportunity to speak at the end of the meeting.

City Clerk Golden gave the Committee a handout regarding the City Clerk's position and emphasized that the information has to do with the position and not the people in them. She stated that she did this so the Committee could be informed on how the City Clerk functions relevant to the City Commission and the City Manager.

Mr. Blakeslee explained that a (60) day extension was given to the Charter Review Committee (CRC) by the City Commission at their last meeting. He stated that the CRC must get their work completed in order to get it to the attorneys. He addressed

Note: Consensus means approval of at least 70% of the committee in attendance.

deadlines facing the Committee and stated his interpretation of the message the City Commission was sending is that they would accept the CRC's recommendation not to do a referendum at this time but the Committee needed to get going on completing their review of the Charter.

There was discussion on the request of the City Commission and the timing for the election, the legal staff's time needed to write the Ordinance, time to have two public hearings, and time to get language to the Orange County Supervisor of Elections for the March ballot.

4. **REVIEW DRAFT RECOMMENDATIONS**

- Vacancies and Forfeitures

Ms. Crotty stated that the Committee had agreed not to go back and review anything unless it was the consensus of the group to do so. She addressed the suggestion that the CRC revisit the *Vacancies* and/or *Forfeiture* section in relation to attendance of meetings. Ms. Crotty read an excerpt from the *Forfeiture* provision of the draft recommendation.

Concerns were expressed on the recent decisions of the City Commission on this issue and it was stated that people deserve representation in their districts. The CRC discussed the City Commission being allowed to determine what path they choose in deciding whether or not to excuse absences. There was also discussion on the possibility of temporarily filing vacancies and the Assistant City Attorney was asked to look into any case law regarding this issue and bring it back to the Committee.

There was not a consensus from the Committee to change the *Forfeiture* language as already established in the draft recommendations.

- City Clerk Position

There was discussion on the position of the City Clerk and whether this position should fall under the direction of the City Manager or the City Commission.

There was discussion on who would give the performance review and direction to the City Clerk. Each member of the Committee voiced their thoughts and/or opinions on this issue and there was discussion on the organizational chart handed out by City Clerk Golden earlier in the meeting and her election related responsibilities.

It was the **consensus** of the Committee that the draft recommendations be changed to show that the City Clerk would be appointed and removed by the City Commission.

- Redistricting Committee

Mr. Lynch asked why the CRC decided that after a Redistricting Committee submits its report to the Commission, they can adopt any new district boundaries they want. He stated that it leaves a big hole for gerrymandering by Commission members. Ms. Crotty stated that the rationale was the same as that followed by the Charter Review Advisory Committee which makes recommendations and the Commission is free to adopt or change them. Hopefully they will approve the Districting Committee's recommendations, but if they do not create an alternate districting plan, the committee's plan becomes an ordinance.

- Section 27 – Removal of City Manager

It was stated that a definition is needed to explain a supermajority. There was discussion on what a supermajority means and whether or not a number should be added for specification. If the Commission wants to remove the City Manager before the end of the contract then a supermajority is needed to put forth the resolution. If the City Manager wants to have a public hearing then a supermajority is also needed to finalize the Commission's decision after the hearing.

- Attorney Draft of Charter Recommendations

Assistant City Attorney Langley stated that he has taken the Committee's recommendations thus far and incorporated them into the existing charter. He explained that he has cut and pasted and has possibly changed the order but has captured the intent of the changes and presented the draft for the Committee to review. (*See attached*).

5. ARTICLE IV. CITY DEPARTMENTS AND OFFICERS

SEC. 34 - CITY ATTORNEY

Ms. Crotty referenced the marked up version of the charter submitted by the former City Attorney and stated that it deletes the entire section that deals with the prosecutor. The City Attorney currently is appointed by the City Commission and is a charter officer. Ms. Crotty read some of the stricken language of the markup version and then referred the Committee to the model charter section 4.03.

There was discussion on the use of additional attorney's by the City as required for their specialized fields of expertise.

It was the **consensus** of the Committee to leave in the sentence, "*It shall be the attorney's duty to perform all services incident to the Attorney's position as may be required by statute, by this Charter or by ordinance*".

SEC. 35 - CITY ENGINEER

Ms. Crotty stated that most charters do not have the City Engineer listed in the Charter; this makes the Engineer a charter officer. Ms. Crotty suggested deleting Section 35 in its entirety.

It was the **consensus** of the Committee that Section 35 - City Engineer be deleted from the City Charter.

SEC. 36 - POLICE DEPARTMENT; CHIEF OF POLICE

Ms. Crotty stated that the Police Department is listed in the City of Winter Garden's Charter but not the Fire Department. She explained that some cities do not have their own Police or Fire departments and contract out these services. She stated that if something is listed in the Charter, the option to contract out is taken away. She shared an example from another city and stated that these departments are high profile departments within cities, but it is a mistake to include the duties and powers in the Charter.

It was asked where this section was in the Model Charter. It was stated that it was not in the Model Charter because these departments are generally treated as a department and a City can choose to have a Police or Fire Department or not.

There was discussion on potential problems with the Committee trying to take this section out and it was suggested that this section be revised but left in the Charter.

There was discussion on retaining section one (1), two (2) and part of section five (5), removing section three (3) and four (4). Section 5 to read "*The Chief shall perform such other duties appropriate to the office as may be imposed upon the Chief by law, the ordinances of the city, and by direction of the city manager, consistent with this Charter.*"

Ms. Crotty stated that it is not specified that the City Manager hire and fire the Police Chief and asked if the Committee thought language should be added to make it clear.

It was the **consensus** of the Committee to add "*hired and removed by the City Manager with confirmation by a majority of the Commission.*"

6. **ETHICS/BOARD OF ETHICS**

Ms. Crotty stated that in the current charter there is no reference to ethics. She stated that in the first meeting the Committee identified things that they wanted to discuss and ethics was listed. Ms. Crotty referenced the model charter page 53, which spoke of conflicts of interest and setting up a Board of Ethics within the City. Florida has a state law, Chapter 112, that deals strongly with ethics for employees and elected officials. She stated that in most jurisdictions in Florida they do not feel the need to have an additional ethics provision in their charter. She stated that there is a State Ethics Commission for citizens to go to if they feel the need to bring charges against someone they think is in violation of Chapter 112. Ms. Crotty stated that some cities will put policies in place that address some ethics issues and she gave examples of some of those issues. She stated that those examples were the only ones she is aware

of that go above and beyond what the state statutes already require. She then opened for comments and ideas on this issue from the Committee. Ms. Crotty gave the Committee a handout which she stated is an excerpt from the Charter of the City of Long Boat Key addressing the *Ethics in Government* issue.

There was discussion on the expense involved with setting up an Ethics Board and by **consensus**, it was agreed that state ethics laws are adequate and do not need to be addressed in the charter. It was suggested that language referring to ethical conduct be included in the preamble of the Charter.

- Section 8 Powers of City; general.

There was discussion on the decision to strike those items that will not be included in the Charter. Ms. Crotty referred the Committee to the Municode revision which talks about all of the powers of City in general in Section 8. Ms. Crotty stated that Municode's recommended language of Section 8 could simply state "*the City has all the powers of a municipality under the state constitution under the laws of the State of Florida as fully and completely as so such powers are specifically enumerated in this charter unless otherwise prohibited or contrary to the provisions of this charter.*" She stated details of what those powers and duties are should not be in the Charter. It was determined through additional discussion of the Committee that these items be put on the agenda for review and discussion at a later date.

7. **ARTICLE I. SECTION 8 (28) SALE OF INTOXICANTS**

Ms. Crotty referred the Committee to the Municode suggested revision of the charter for Section 8 (28).

There was discussion on alcohol sales in the city. The current charter gives the Commission the power to regulate hours of sale and requires a referendum of the voters on regulations affecting the location of establishments selling alcohol. Assistant City Attorney Langley read an excerpt from the Ordinance 05-28 aloud which sets the hours of sale.

After further discussion on the issue it was the **consensus** of the Committee to leave everything in Section 8 (28), as is, except the first and second sentences as shown with strike-through version provided by Municode.

8. **INITIATIVE AND REFERENDUM**

Ms. Crotty stated that in the Model Charter, and in most charters, it is routine to include an Initiative and Referendum section. It is an opportunity for the citizens to have access to putting forth an ordinance or repealing an ordinance. Ms. Crotty referred the Committee to the Model Charter on page 48 as she explained the procedure for an initiative and then explained procedures for a referendum. She stated that the model charter also includes recall but suggested that the Committee refer to Florida law for recall provisions. Ms. Crotty asked the Committee to first decide if they want initiative and referendum provision in the Charter and then decide what

percent of registered voters' signatures would be needed to put the ordinance on the ballot.

There was discussion on 10% being the number of signatures of registered voters needed to put the initiative or referendum on a ballot.

It was the **consensus** of the Committee to move forward with including language referencing Initiative and Referendum with Ms. Crotty drafting the language for the Committee to review at a later meeting.

9. **PUBLIC COMMENT**

Lee Craft stated that he is with the Florida Water Pollution Control and Operators Association and he is responsible for the constitution and rules for that organization. He referenced an earlier conversation of the Committee regarding the removal of someone from a position. He explained that in his organization if the individual is absent three (3) times that person is removed from the seat. He explained that once the seat is vacant they can appoint someone else.

Jerry Carris stated that he had no comments but just likes to listen and finds it hard to keep quiet.

10. **CONCLUSION AND ADJOURNMENT**

Ms. Crotty stated that at the next meeting the Committee will take action on the Initiative and Referendum section, whatever was not covered on the list will be included on the next agenda and the Committee will also look at the cleaning up of all the strike-throughs as shown in the Municode suggested revision.

Ms. Crotty stated that she feels the Committee is close to being done with its review and advised the Committee to review the current draft from the Assistant City Attorney and encouraged them to be ready to review the draft if time allows during the next meeting.

The Assistant City Clerk Grimmage was asked to provide the Committee with the total number of registered voters in the past few elections.

The meeting was **adjourned** at 8:30 p.m.