

**CITY OF WINTER GARDEN
CHARTER REVIEW ADVISORY COMMITTEE
MEETING MINUTES
September 26, 2006**

The Winter Garden Charter Review Advisory Committee meeting was called to order by Facilitator Marilyn Crotty at 6:31 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
Barbara Muzeni
Richard Napotnik
Pamella Stewart

MEMBER ABSENT:

Bert Valdes

Facilitator:

Marilyn Crotty

Also Present:

Assistant City Attorney Dan Langley (*Arrived at 6:35 p.m.*)
Assistant City Clerk Angee Grimmage

1. **APPROVAL OF MINUTES** - September 12, 2006
It was the **consensus** of the Committee to approve the minutes for September 12, 2006 as written.
2. **PUBLIC COMMENT**
Jerry Carris, 347 Bayside Avenue, Winter Garden, Florida stated that he felt the City Commission should adopt Robert's Rules of Order.
3. **REVIEW DRAFT RECOMMENDATIONS**
Ms. Crotty noted an additional change to her draft of Sec. 33 City Clerk; The City Commission shall appoint and remove a City Clerk who shall give notice of commission meetings to its members and the public, keep the journal of its proceedings, and perform such other duties as are assigned by this charter, the City ~~Manager~~ Commission, or state law.
4. **INITIATIVE AND REFERENDUM**
Ms. Crotty gave a recap on why this item would be reviewed for possible inclusion in the Charter stating it gives the citizens the right to either pass or

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

repeal an ordinance. This provides for a petition method to get an ordinance or a repeal of an ordinance on the ballot. Ms. Crotty stated that this language is taken from the Model Charter.

It was suggested that 10% of registered voters be required for establishing an initiative and referendum. The committee reviewed and discussed a handout from the City Clerk's office showing election data focusing on the number of voters and the percentage of turnout. There was discussion to specify which election total to use.

Mr. Langley stated that someone had asked whether there was any initiative language in the Florida Statutes on how many voters are needed to take an initiative to the Commission. There is none with respect to ordinances, except for Charter amendments. He read an excerpt from Florida Statute 166.031(1), stating the number of signatures required on a petition is 10% of registered electors as of the last preceding municipal general election in order to get a charter amendment proposal before the Commission.

It was the **consensus** of the committee to insert "*at the last general municipal election*" utilizing 10% of the registered voters.

Ms. Crotty stated that the rest of the language is the procedure for setting up the initiative. She stated that it only takes five (5) people, based on the Model Charter, to start the process and gather signatures for the petition. The Commission has the opportunity at any time to pass or repeal the ordinance. If the petition is circulating for a referendum to repeal an ordinance, the ordinance is suspended until there is an opportunity for the vote. There are only 30 days to get the signatures. After the petition is filed with the City Clerk there are 20 days for the Clerk's office to determine if the petition is sufficient.

There was discussion on repeal of an existing ordinance which would be the referendum process and the timeframes required for reconsideration of a newly adopted ordinance.

There was discussion on the "Recall" portion of Charter stating that it will be by State law, but will not be included as part of the *Initiative and Referendum* section.

There was additional discussion on the repeal of an existing ordinance and the number of people it takes to remove an existing ordinance off the books.

City Attorney Langley stated that with reference to rezonings on a small scale, they are a quasi-judicial proceeding. He explained that it could lead to future litigation because if something is passed that states the voters or electors have the

right to take someone's zoning through a referendum vote this is contrary to existing case law that states that rezonings on a small scale are quasi-judicial. The landowner is entitled to a hearing on the evidence before the Planning and Zoning Board and the City Commission. By taking it out of the quasi-judicial process and putting it into a legislative voting process, denies due process rights of the landowners.

Ms. Crotty stated that this process of initiative and referendum is rarely used but is in many charters and gave some examples.

There was discussion that all the rezonings are done by ordinance. Ms. Crotty suggested that a prohibition could be added to the charter language stating that initiative and referendum not deal with any rezonings.

There was discussion on whether the charter should have the *Initiative and Referendum* section, including or excluding the rezoning clause. Ms. Crotty asked for the input of each committee member on this issue.

It was the **consensus** of the committee to add Initiative and Referendum to the Charter with a prohibition on rezoning.

There was agreement on adding salaries of city officers or employees to the Referendum section.

5. **CHARTER REVIEW AND AMENDMENT**

Ms. Crotty referred the committee to page 56 of the Model Charter. She stated that the State of Florida does have a statute that deals with charter amendments and explained how charter amendments can be initiated, either by the Commission or the citizens.

At the request of Ms. Crotty, Mr. Langley read excerpts from state law as related to this issue.

There was discussion on including a periodic review of the Charter and the number of years in which it should be reviewed. Also suggested was the addition of a mechanism for amending the charter.

It was suggested that there be two sections added, one stating how the Charter can be amended and one stating the charter review process and how frequently it should be reviewed by a citizen committee.

It was the **consensus** of the committee to include "*at a minimum of every 8 years*" for a Charter Review by a citizen committee.

6. **FINANCE/BUDGET**

There was discussion on the Municode suggested revision on page 32 and the City Charter Article VIII - Tax Administration. It was stated that this was not needed in light of the mandatory nature of Florida Statute.

There was discussion on the deleting of Article 8, 9, 10, and 11. Also discussed was the Model Charter page 30.

It was the **consensus** of the committee to delete Article 8, 9, 10, and 11.

There was discussion on the fiscal year dates for cities, counties and the state.

There was discussion on the ability to change things in the City Charter that are in violation of the state law, without going to referendum.

Model Charter page 30 – 38 was discussed. It was suggested that some items need not be included in the Charter as they are already mandated by state law. Items to be included in the Charter should be those that can stand the test of time.

Ms. Crotty suggested reviewing the current Charter to see if there are items that can be salvaged. There was discussion on Section 23 of the City Charter regarding *Independent audit required*. Also discussed was the Municode mark up and items which should not be included in a charter.

There was discussion on who has authority in the Transfer of Appropriations. Ms. Crotty suggested specifying in the Charter who has the authority for transferring of appropriations is a good idea. Also discussed was what is mandated by State law.

The committee reviewed Article V of the Model Charter for discussion on which items should be included or excluded. It was suggested that only the first sentence of Section 5.04 be included. It was suggested that a sentence be included that states the City is going to follow State law with reference to *City Council Action on Budget*. Ms. Crotty stated that Section 5.06 was not necessary.

With reference to Section 5.07, Ms. Crotty explained that adding to the budget (a) *Supplement Appropriations* means that actual revenues are greater than projected when the budget was approved. The Commission needs the authority to make supplemental appropriations. There was discussion on the need to identify that there are (b) *Emergency Appropriations* and whether or not (e) *Limitation; Effective Date* should be included. Ms. Crotty suggested having the Finance Director, Brian Strobeck, review this section and make comments back to the Committee.

There was discussion on *Section 5.08. Administration and Fiduciary Oversight of the Budget*, *Section 5.09. Capital Program*, and *Section 5.10. City Council Action on Capital Program*. It was suggested that State law be identified for these sections.

7. **PUBLIC COMMENT** - There was none.

There was discussion on an independent audit and public records. Ms. Crotty stated the public records section does not need to be included in the Charter as Florida law is very strict on this issue. It was suggested that a line be inserted in the Charter to show that an annual audit is required but refer to state law.

Mr. Langley stated that he noticed in the proposal from Municode that they struck out a lot of the authorization for issuing bonds. He stated that it does specify the City's powers in State law but it is nice to have specific language in the Charter that states the City can issue bonds.

The meeting was adjourned at 8:35 p.m.