



CITY OF WINTER GARDEN

City Commission SPECIAL MEETING / WORKSHOP MINUTES

January 26, 2024

SPECIAL MEETING/WORKSHOP of the Winter Garden City Commission was called to order by Mayor Rees at 9:30 a.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. An Opening Invocation and Pledge of Allegiance were given.

Present:

Mayor John Rees
Commissioner District 1 - Lisa L. Bennett
Commissioner District 2 - Ron Mueller
Commissioner District 3 - Mark A. Maciel
Commissioner District 4 - Colin Sharman

Also Present:

City Manager Jon C. Williams
City Attorney A. Kurt Ardaman
City Clerk Angee Grimmage

City Attorney A. Kurt Ardaman stated that the City Commission chose to have a special meeting and workshop on the City Charter and especially the prohibition of the Charter and related matters. He referred to a handout (See attached - **Exhibit A**) that had been distributed to the City Commission by City Manager Jon C. Williams to provide some context to the Charter and help the City Commission in its understanding and interpretation of the Charter.

City Attorney Ardaman explained the types of government, the City of Winter Garden's form of Government as a City Manager form of government. He explained that the City Manager is the point-person for the administration of all the policies adopted by the City Commission. He read and excerpt from Section 30. Furthermore, Mr. Ardaman explained that the Charter interpretation and meaning in Florida is deferred to the City's interpretation of its own code.

City Attorney Ardaman explained Charter Section 14 – Prohibitions. Also addressed were Subsections (1) *Appointments and Removals*, and Subsection (2) *Interference with Administration*. Mr. Ardaman then explained City Charter Section 15 – Forfeiture of Office. He noted that the item at issue was Section 15(b) Violates any express prohibition of this charter. Mr. Ardaman noted that the definitions of terms were provided for reference and briefly covered some of the definition meanings.

Mr. Ardaman noted that the definitions are not binding, and it is why the City Charter would need to be reviewed as a whole and be the judge of what those provisions mean. Mr. Ardaman then recognized City Manager Jon C. Williams to address the City Commission.

City Manager Jon C. Williams shared from a staff's perspective what it means for City Commission and staff interaction, noting that the City Commission as an elected official have political priorities that match that of their constituents. He reminded that they are a part of a multi-membered governing body, that by a majority vote, makes policy. He stated that these policy decisions are directed or communicated to the City Manager, who then provides the appropriate direction to the staff. He noted that in the simplest terms, what to do is policy

making, how to do it is administration. Mr. Williams noted that staff also recognizes the City Charter as the City's constitution, written and adopted by the citizens, defines our boundaries, the form of government and powers. He noted that staff is fully aware of those provisions of the Charter and the consequences of its violation.

City Manager Jon C. Williams reiterated the City Attorney's reference to the City of Winter Garden's form of government and noted that administration is made through the City Manager. He addressed the issue of the City Commission contacting City staff. He expressed that it places staff in an awkward position of potential Charter violation, it can be interpreted as attempting to influence staff with respect to operation. He gave examples of advancing ordinances, resolutions, making recommendations for board appointments, awarding contracts, processing development applications, selecting consultants, approving permits, special events or receiving special favors. Furthermore, he noted that the reality of putting staff in this position forces staff in a position of doing something an elected official wants, versus the desire of the majority of the City Commission. He indicated that this runs afoul with the City Charter, with established practices, protocols, and policy, which he expressed could erode trust and put staffs' livelihoods in jeopardy.

City Manager Williams addressed the issue at hand and questioned if it is appropriate to email staff directly, and carbon copy the City Manager to request a meeting, request them to produce a document with a deadline, perform a task, or promise a constituent wants or modification to special events or anything of that nature. He also questioned if it were appropriate for a Commissioner to email staff in such a way to further a political priority and to appear to represent the majority of the Commission. Mr. Williams stated that if the answer is yes, he asks that they consider the impact that five individual political priorities would have on staff and the ability to efficiently operate the City. Furthermore, Mr. Williams stated that if the answer is no, this would be an opportunity for he and the City Attorney to come back with some rules to further clarify Commission and staff interactions.

Commissioner Sharman shared some of his past interactions as they related to the Marsh Road issue, noting how most interactions were with City Manager Jon C. Williams. He shared that, regarding his district, it has been easy to come to the City Manager and have the City Manager and staff take care of an issue. He noted that there needed to be clarification on the day-to-day items and noted that going to the City Manager makes this easier.

There was discussion on interactions with the prior City Manager.

Commissioner Maciel clarified that this City Commission is part time Commissioners and not County Commissioners who work on a whole different level of running their departments. He likened the City Commission to a board of directors, reiterating that they are part time commissioners, and there is a full-time staff. He noted that he likes the Charter the way that it is, however, noting that sometimes it can be frustrating when wanting a fast reaction. He expressed that one would have to realize that the City Manager has five Commissioners

coming to him all the time. Furthermore, he expressed that one would have to be patient. He stressed trying too hard as you can for your residents, but you have to let City staff do their job.

When recognized by Mayor Rees, **Commissioner Mueller** stated that he had no comment.

Commissioner Bennett stated that her issue is not that the Charter has been mistakenly violated. She expressed that the City Commission had been given a stack of emails where there had been the direction of staff, threats to fire people if Commissioner Ron Mueller did not get his way. She stated that “we are not elected to be kings and get what we want at all costs.”. Furthermore, Commissioner Bennett stated that if they all acted this way, our City would not get anything done. She noted that it is evident in the emails provided to the City Commission for review, shows that violation of Charter Section 14(1) and 14(2) are there.

Motion by Commissioner Bennett to find Commissioner Mueller guilty of violating Charter Section 14(1) and 14(2) and give him a one and only warning and direct the City Attorney and City Manager to fine tune the language, even though solely means solely, noting that there are some possible ambiguities and bring back rules of decorum so that this never happens again.

Commissioner Sharman sought clarification on Commissioner Bennett’s motion, questioning if it is stating that he [Commissioner Ron Mueller] has overstepped.

Commissioner Bennett responded that he has violated Charter Section 14(1) and 14(2), with the evidence.

Motion seconded by Commissioner Sharman.

Mayor Rees shared history of the Charter and its change from the City Mayor that ran the City. He noted that the City decided to get a professional City Manager and expressed that this position was ran as a Chief Operating Officer (COO) of the City, like that of a private company. He addressed the issue of the Charter stating that the City Commission will deal with staff solely through the direction of the City Manager. He expressed that it is common sense to him that if you need anything through staff, you go through the City Manager. He then shared the workings of a private business as an example.

Mayor Rees shared that he was told by our previous City Manager that he had asked Commissioner Ron Mueller not to do this anymore. He noted that he was told that our current City Manager had also done that. Furthermore, he noted that there was an email that basically pleaded for Commissioner Mueller to not continue to send emails to staff and copy the City Manager, but it continued. Mayor Rees thinks that this puts staff in a very precarious situation. Furthermore, **Mayor Rees** noted that this is his opinion and thinks that it is spelled out plainly but reiterated that this is his opinion.

City Attorney Ardaman stated that the Charter does not allow for a hearing without a 14-day notice. He noted that this is not a hearing to consider a forfeiture of office. **Mayor Rees** affirmed. **City Attorney Ardaman** asked if this is a part of the motion that there is no forfeiture of office based on that. **Commissioner Bennett** responded, in lieu of forfeiture of office, that a warning be given. **City Attorney Ardaman** restated that this would not constitute a forfeiture of office based on what has been presented to the City Commission. **Commissioner Bennett** responded correct, not during this term, not for the charges/violations at hand.

City Attorney Ardaman explained that the Charter provides that for the City Commission to exercise their power, with respect to forfeiture, Commissioner Mueller would be entitled to the notice and a hearing. City Attorney Ardaman again established that this is not that hearing, he clarified that Commissioner Bennett's motion is based on what has been seen, it is believed that Commissioner Ron Mueller has violated the Charter, but it is not a forfeiture, because the Charter also says that three members of the City Commission has to vote in favor to declare the office forfeited. City Attorney Ardaman again asked that there is no forfeiture of office in Commissioner Bennett's motion. **Commissioner Bennett** responded, no forfeiture of office, a one and only warning.

Commissioner Sharman inquired if the City Commission could do less than a forfeiture of office or can the City Commission give a warning. **City Attorney Ardaman** restated that the Charter says a forfeiture of office cannot occur unless at least three members of the City Commission vote for that, it does not say that you cannot do a censure or something less. He gave an example, noted their limited authority, but stated there is nothing to stop the City Commission from issuing a censure. Mr. Ardaman restated the rules of a forfeiture of office.

Mayor Rees expressed that he believes the motion is just to warn him [Commissioner Mueller]. **Commissioner Maciel** agreed and inquired of City Attorney Ardaman, if there was anything written in the Charter about censure. **City Attorney Ardaman** responded, no, not a word.

City Attorney Ardaman reiterated that this is not the hearing and believes that Commissioner Mueller would want to be able to respond, noting that he [Commissioner Mueller] is certainly welcomed to respond today. Mr. Ardaman stated that given that the motion, he presumes, does include that there is no forfeiture, that the City Commission is not seeking forfeiture, it is just a notice of violation of the City Charter without any other consequences, whether to occur now or later. **Commissioner Bennett** responded, right. **Mr. Ardaman** continued, explaining that having voted now that there was a violation of the Charter and later stating that since this was voted on, there would now be a forfeiture of office, cannot be done. **Commissioner Bennett** interjected that what she meant was, if [Commissioner Mueller] were re-elected and the behavior continued, it would be addressed then. **City Attorney Ardaman** went on to explain that, if Commissioner Mueller is re-elected, anything that he has done in this term,

good, bad, or indifferent, would not be appropriate, if he is re-elected, for a later time. He stressed that the actions that occurred are for that term.

Commissioner Bennett noted that it is a special meeting and inquired if she could make a motion. **City Attorney Ardaman** responded yes; you could make a motion. **Mayor Rees** inquired if City Attorney Ardaman was okay with this. **City Attorney Ardaman** responded yes, but he thinks that it is a little close. He noted that as long as the motion does not include forfeiture and that it would not be used in any proceeding for a forfeiture, he thinks that the City Commission is probably okay to move forward.

Commissioner Sharman inquired, for future discussion and for his own knowledge, that if he [Commissioner Sharman] wanted to have him [Commissioner Mueller] write on the chalk board 1,000 times that "I will not go around the City Manager," would we have to have a forfeiture hearing for that. **City Attorney Ardaman** responded, no, you are not going to be able to do that as you have no authority to do that. He stressed that this City Commission does not have any authority to impose on any one of you [the City Commissioners] a penalty other than forfeiture of office if there were a vote. There was discussion that there would need to be a change to the Charter, which only the voters could do.

City Attorney Ardaman noted that there was a request in the motion that some guidelines be brought back for the City Commissioners to consider what the City Commission believes is appropriate. He stated that notwithstanding whatever they may bring back or what the City Commission might adopt, it would not be binding on the City Commission if there were a future violation, by any Commissioner. He stressed that it would not be binding, but certainly more persuasive, in a much more definitive way, noting that the City Commission adopts certain procedures and establish what would be reviewed in a future hearing. In part, it could be used to determine whether there had been a violation of the Charter.

Commissioner Maciel inquired if this discussion had anything to do with the Sunshine law. **City Attorney Ardaman** responded, no, just the Charter. Discussion ensued on which agency regulates the Sunshine Laws.

Commissioner Sharman inquired if there could be something implemented less than a forfeiture. **City Attorney Ardaman** responded, absolutely, and noted that this would have to be presented to the voters for approval.

Commissioner Mueller noted that he would like to make two comments, and stated that when talking about rules, one of the rules established for this workshop is that it would not be about Ron Mueller. He noted that it was about the Charter, how it is interpreted, and how to move forward. He stated that, regrettably, Commissioner Bennett did not follow those rules and she decided to pull up things and make motions. Furthermore, he stated that this is not what we were here to do today. He restated that the workshop was on how we go forward with the Charter, what the words mean, and what are the City Commission's options.

Commissioner Mueller spoke of how Human Resources (HR) addresses situations and how they utilized terms like “up to and including termination.” He noted being sure there are a plethora of things the City can do if it is believed that someone did something wrong. He thinks that is one of the merits that should have been discussed today. He addressed better defining the “dealing with” vague term. He claimed that in the broadest sense of the term, each of them is guilty of dealing with City staff. He voiced that we talk and chat with them. Furthermore, he questioned if the term “dealing with” is asking staff for something, or is it congratulating them and gave further examples, asking what the boundaries are. He thinks that this workshop would have tremendously benefited from those conversations as opposed to redirecting it against the very purpose that had been established for the workshop.

Commissioner Sharman stated that he thought that the City Commission could still have those conversations and have a positive workshop. He expressed that he took it as Commissioner Lisa L. Bennett attempting to try and give a warning as opposed to a forfeiture hearing. He stated that he took it as her taking advice from a constituent at last night’s meeting, realizing we just need to move forward, and see what happens. He stressed that he did not take it as she was trying to do anything different. Furthermore, Commissioner Sharman expressed that he thinks that we are all trying to get past this issue with all the City Commission looking professional in their conduct. He expressed that we could have a discussion on how we can move forward as a City and set parameters and potential items for changing the Charter.

Mayor Rees noted that since 1986, the City has never had these kinds of issues and thinks that it was clear, noting that everybody got along and moved forward to get things done. He spoke of changing the Charter and how it would get too finite and put the City Commission in a position to make a judgment. He stated that deciding on the punishment and four different levels tend to get too deep into the details. **Commissioner Sharman** expressed that he does not think we need to go that far, and spoke of options for a Charter change, as stated by the City Attorney, and mentioned by Commissioner Bennett in her motion, to come back with some clarifications.

Commissioner Maciel noted that we cannot change the Charter here, but inquired if the City Commission could require that a City Commissioner get training. He emphasized that he is a firm believer in training, and rules being set up front, even if a City Commissioner must sign something stating that they agree to the rules, this is how it is supposed to operate, and you agree to the Charter. Furthermore, he addressed highlighting the issues, even some that have occurred here, so it does not happen again. He shared history with getting called to the former City Manager’s office and stressed that this does not have to go in the Charter but feels that there should be some form of training for new commissioners.

Mayor Rees noted that anything this Commission decides could be changed by the next Commission. He mentioned the Form 6 Financial Disclosures concern and stated that between that and too many other stipulations you may have a problem getting good people that would

want to do this. **Commissioner Maciel** agreed, but asked if there was at least a 30-minute orientation that the City Manager could have when a new Commissioner comes in.

City Manager Jon C. Williams indicated that a Google search on examples shows that other municipalities have developed guidebooks, and resolutions have been written to further clarify what the Charter says for elected officials, even getting into the finite details. He noted that some of those examples could be brought back to the City Commission for their consideration.

Commissioner Maciel agreed noting that something sort of new commissioner orientation is needed.

Commissioner Sharman noted wanting to have a conversation on common courtesy on the City Commission. He shared that, as a Commissioner, he receives phone calls from people in other Commissioner's districts. He noted to the City Commission that they may get calls, and some may be from a personal friend. Furthermore, he stated that if it is something simple, he would take care of it, but he would never hold a community meeting in another Commissioner's district for a homeowner's association (HOA). He noted that this is just professional courtesy. He expressed that although there is no written rule against this, there is some common-sense professional courtesy that we all have for each other. He noted that doing this for as long as he has is how he has been able to navigate and get things done for his district, it is by getting along with other Commissioners. Commissioner Sharman reiterated that this is not in our Charter, but one must be open to being a business professional, a good person, just common-sense business decorum. He spoke of having respect for each other as City Commissioners. Some of the other Commissioners voiced their agreement.

Commissioner Bennett noted that this has happened to her, but that is not her issue, and expressed that her issue is the treatment of staff. She admonishingly stated that you do not treat people the way that you [Commissioner Mueller] do, in public, and in writing as well in an email form, and then get in a public setting and compliment them.

City Attorney Ardaman noted the comments given by the City Commission and thought that a restatement of the motion would be in order. He stated *"that many of the emails provided to the City Commission constitute a basis for the occurrence of a forfeiture hearing under Section 14(1) and 14(2) of the City Charter. However, there shall not be a hearing on a forfeiture on those emails provided to the City Commission. Also, direction to the City Attorney and City Manager to bring back rules for consideration and potential amendments to the Charter."*

Commissioner Sharman withdrew his second to the motion already on the floor. Motion failed for lack of second.

Motion by Commissioner Sharman that while the City Commission has received emails that rise to the level of a forfeiture hearing, he believes it is in the best interest of the City Commission not to hold the forfeiture hearing and direct staff and the City Attorney to come

back with clearer rules and potential Charter amendments, to avoid costs to the City and due to the close proximity of the election. Seconded by Commissioner Mueller.

There was discussion on the language and whether this meeting was being recorded.

Motion withdrawn by Commissioner Sharman. Motion died.

Motion by Commissioner Bennett that the City Commission has received emails that rise to the level of possible forfeiture, but the City Commission will not hold a forfeiture hearing at this time and direct the City Attorney and the City Manager to come back with clarifications on some of the language to make sure that this does not happen again. Seconded by Commissioner Sharman.

Mayor Rees recognized City Attorney Ardaman for comment at this point.

Commissioner Mueller questioned the phrase “*at this time,*” and asked what does “*at this time*” mean and stated that it is a little ambiguous in a motion.

Commissioner Bennett replied that she thinks this is the problem he has in sending emails, is that you [Commissioner Mueller] questions wording. She emphasized that “solely means solely”.

After further discussion of the City Commission, the motion was restated with amendments to strike the phrase “*at this time*” and add “*copies of*” in front of the word emails.

Motion by Commissioner Bennett that the City Commission has received copies of emails that rise to the level of possible forfeiture, but the City Commission will not hold a forfeiture hearing on those emails but direct the City Attorney and the City Manager to bring back guidance to the City Commission. Seconded by Commissioner Sharman and carried unanimously 5-0.

There was discussion on a review of the Charter and scheduling the City Commission photos.

Commissioner Mueller spoke of training, on-boarding, and possibly a new Commissioner checklist.

City Manager Jon C. Williams noted that in addition to the photos, there would be another workshop scheduled for the Wastewater Treatment Plant for February 8, 2024.

The meeting adjourned at 10:17 p.m.

ATTEST:

APPROVED:

/S/
City Clerk Angee Grimage, CMC

/S/
Mayor John Rees