



CITY OF COCONUT CREEK CHARTER REVIEW BOARD MEETING MINUTES

Jeffrey Barker, Chairperson
Heidi Thorman, Vice Chairperson
Ann Fantell
Connie Finley
Steven Hall

Government Center
4800 West Copans Road
Coconut Creek, FL 33063

Date: March 2, 2020
Time: 6 PM
Location: Commission Chambers

1. CALL TO ORDER

The seventh meeting of the 2020 Charter Review Board (CRB) was called to order by Chair Jeffrey Barker at 6:04 PM.

2. ROLL CALL

Chair Jeffrey Barker – District C
Vice Chair Heidi Thorman – District A
Ann Fantell - District B
Steven Hall – District E
Connie Finley – District D

ALSO PRESENT: Deputy City Attorney Kathryn Mehaffey, Finance and Administrative Services Director Peta-Gay Lake, and City Clerk Leslie Wallace May.

3. APPROVAL OF MINUTES

A motion to approve the minutes of the February 24, 2020, CRB Meeting was made by Ms. Thorman and seconded by Ms. Fantell. There was a unanimous voice vote to approve the minutes.

4. DISCUSSION BY FINANCE AND ADMINISTRATIVE SERVICES DIRECTOR PETA-GAY LAKE

Finance and Administrative Services Director Peta-Gay Lake introduced herself to the Board and gave a brief summary of her background and experience. She thanked the Board for the opportunity to meet with them and began her discussion of the following sections of the Charter:

Charter Section 308 – Independent Audit

The Commission shall provide for an annual audit of City Accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by an independent certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Commission may designate such accountant or firm annually for a period not exceeding five (5) years. No accountant or firm shall perform the annual audit for a term that exceeds five (5) successive years. If the State makes such an audit, the Commission may accept it as satisfying the requirements of this section.

She explained that as the Charter now reads, a mandatory rotation of the auditing firm is required every five years. However, recent studies have shown that the mandatory rotation may not be as effective as originally thought. She said that some of the drawbacks include the large start-up costs of a new auditing firm, staff time to educate the new auditors on the processes of the City, and a loss of continuity with the auditors who have the familiarity and understanding of the City's specialized areas. She mentioned that the Public Company Accounting Oversight Board, the overseers of the audits for publicly traded companies, does not require mandatory rotations, but instead requires the mandatory rotation of the partner assigned to the auditing job. She asked the Board to consider changing the Charter so that the mandatory rotation would apply to the firm's staffing as opposed to the whole auditing.

Discussion ensued regarding when the last selection of an auditing firm took place and the start-up costs involved with a new firm. Mr. Hall asked if Ms. Lake would have preferred keeping the auditing firm prior to 2019, and she responded that if after going through with the RFP (Request for Proposals) process, the previous firm was ranked the highest in the process, then yes, she would have liked to have stayed with that firm. She also noted that each time the City goes out for an RFP for auditing services, the number of responsive submittals received gets smaller, because the pool of auditors who participate in the government arena was dwindling.

Ms. Thorman asked Ms. Lake about changing the number of years of the term of the auditing firm and Ms. Lake replied that she preferred not to cap it with a number, but instead have a mandatory rotation of the partner. She added that she would want to keep the RFP process every five years and allow for the current auditor to be able to submit a proposal.

Charter Section 604 – Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; ~~the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without disbursement from or encumbrance of the appropriation.~~

Ms. Lake recommended removing the part of the last sentence relating to abandonment of the appropriation after three years, and explained the reasons for the removal. Discussion ensued.

Charter Section 605 – Administration of Budget

- b. *Payments and Obligations Prohibited.* No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are available to cover the claim or meet the obligation when it becomes due and payable. Any authorization or payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year; ~~provided that such action is made or approved by ordinance.~~

Ms. Lake recommended removing the language at the end of the final sentence requiring the actions described therein to be approved by ordinance. She explained that in October of 2019, the City Commission approved Ordinance 2019-036, which adopted the City's purchasing policies and procedures. She explained that within the policy, there are different thresholds for approving contracts and agreements. She explained that by removing the language, it would help the City with its contractual commitments, which can be approved in different ways. Discussion ensued.

Charter Section 801 – General Authority

- b. *Referendum.* The qualified voters of the city shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program except on capital projects financed by tax revenue certificates for water and sewer systems ~~or any emergency ordinance relating to appropriation of money or levy of taxes.~~ There shall be at least thirty (30) days' notice of the referendum or special election by publication in a newspaper of general circulation at least twice, one in the fifth week and once in the third week prior to the week in which the referendum is to be held.

Ms. Lake recommended removing the language pertaining to emergency ordinances relating to appropriation of money or levy of taxes. She explained that emergency ordinances are separate from the referendum process because they are created for an emergency that needs to get resolved immediately. She said this was just a clean-up needed for this section. Discussion ensued with the decision for legal to work with staff on a change to clarify this language.

5. REVIEW OF CHARTER SECTIONS

The Board continued with their review of the "Running Issue List" that was distributed by Deputy City Attorney Kathy Mehaffey at the February 24, 2020 meeting.

Chair Barker began reviewing the following Charter sections and recommended changes included

in the Running List.

Section 401 –Appointment; Compensation; Qualifications

The proposed revisions for this section are as follows:

a.—The Commission shall appoint a City Manager and fix his/her compensation and other benefits. The City Manager's qualifications shall include no less than a bachelor's degree in Public Administration, or comparable major courses of studies, from an accredited American college or university, plus a minimum of five (5) years aggregate relevant experience during the decade preceding his/her appointment in progressively responsible executive positions at the municipal and/or county government levels.

b.—The City Manager need not be a resident of the City or State when appointed, but may reside outside the City thereafter only with the approval of a majority of the Commission.

Discussion ensued regarding:

- how the City Commission approves allowing the City Manager to live outside of the City and whether or not it is stated in the current City Manager's contract;
- if the change was worth having as a referendum question;
- addressing the issues of a city manager living too far outside of the city, such as out of state, or having to get approval just to move to a neighboring city; and
- keeping the residency language as it currently reads in the Charter.

The consensus of the Board was to move forward with the deletion of the language as provided in the Running Issues List.

Section 403 - Acting City Manager

The proposed revisions for this section are as follows:

In the event of absence or disability, the Manager shall designate, in by-writing addressed to the City Commission and filed with the City Clerk, a qualified City administrative officer to exercise the powers and perform the duties of the Manager during his/her temporary absence or disability. During such absence or disability, the Commission may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his/her disability shall cease.

Chair Barker asked for clarification on the reason for striking the last sentence, which would take away the Commission's right to revoke the designation of an Acting City Manager and appoint another officer. Deputy City Attorney Mehaffey explained that the language conflicts with the interference clause and noted that the City Manager is still available in this type of situation. She explained that the City Commission can take their concerns directly to the City Manager, but they cannot overstep the decision of the City Manager. Mr. Barker asked if there was any other section of the Code that speaks to this matter, and it was confirmed that there was not.

Discussion ensued regarding how this section applies to situations when the City Manager is away for a short-term period versus a long-term period. Deputy City Attorney Mehaffey explained that this is a process that is implemented if the City Manager is sick, goes on vacation, or is attending a conference. Mr. Hall asked how many contracts were signed each day and who has and doesn't have signatory authority. Deputy City Attorney Mehaffey explained that when this section is applied, the person serving in the Acting City Manager capacity is intimately familiar with what is being presented and knows that they have the means to figure out what needs to be done, they have means to contact the City Manager, or that the matter can wait.

Mr. Barker asked Deputy City Attorney Mehaffey for her legal opinion about the process of the City Manager sending an email naming her designated Acting City Manager while she is away, via email to the City Commission with a copy to the City Clerk. He asked if this was a direct violation of the City's Charter. Deputy City Attorney Mehaffey explained that the primary concern was with the wording, "filed with the City Clerk." The concern is whether copying the City Clerk on the email technically complies with the filing. She clarified that Legal is comfortable with the email complying with the "in writing" requirement. Mr. Barker asked about the archiving of the City Commission email serving as a means for filing with the City Clerk. City Clerk May explained that all email sent to or from a city email address is archived for a period of ten years. Mr. Barker said he was okay with the archived email complying with the filing requirement if legal was okay with it. Deputy City Attorney Mehaffey recommended removing the words "and filed with the City Clerk," as it can be interpreted as a more formal process.

The consensus of the Board was to remove the wording, "and filed with the City Clerk," and to leave the wording in the last sentence regarding the Commission having the right to revoke the appointment.

Section 405 - Removal

The proposed revisions for this section are as follows:

~~Reserved. Removal:~~

~~The Commission may remove the Manager from office for just cause in accordance with the following procedures:~~

~~a. The Commission shall adopt by affirmative vote of a majority of all of its members, a preliminary resolution which must state the reasons for removal and then may suspend the Manager from duty for a period not to exceed forty five (45) days. A copy of the resolution shall be delivered by the Commission to the Manager within three (3) days.~~

~~b. Within five (5) days after a copy of the resolution has been delivered by the Commission to the City Manager, he/she may file with the Commission a written request for a public hearing. This hearing shall be held at a Commission meeting not earlier than fifteen (15) days, nor later than thirty (30) days, after the request is filed. The City Manager may file with the Commission a written reply not later than five (5) days before the hearing.~~

~~c. The Commission may adopt a final resolution of removal, which may be made effective immediately by affirmative vote of a majority of all its members, at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he/she has not requested a public hearing, or at any time after the public hearing if he/she has requested one.~~

~~d. The Manager shall continue to receive his/her salary until the effective date of a final resolution of removal.~~

The consensus of the Board was to remove the entire section as it is covered in the City Manager contracts and most of it is covered in state law.

Section 406 - Appointment and Duties of the City Clerk

The proposed revisions for this section are as follows:

- a. A City Clerk shall be appointed by the City Manager and shall perform such duties as are prescribed by law, and as are assigned by this Charter, ~~by the City Commission or by the City Manager.~~
- b. The City Clerk shall be keeper of the City Seal ~~and the public records.~~ The City Clerk shall also serve as administrator of City Elections, administrator of the City's records management program, and municipal corporate secretary to the City Commission.
- c. The City Clerk shall authenticate by signature, and record in full, in a properly indexed record kept for the purpose all ordinances and resolutions enacted by the Commission. Regulations adopted by the Commission shall be maintained in a permanent record.
- d. The City Clerk shall administer the oath of office to all persons elected, appointed to City advisory boards/committees, and sworn law enforcement personnel. ~~appointed pursuant to the Charter and Ordinances of the City.~~
- e. The City Clerk shall appoint one or more Deputy City Clerks, who shall perform those duties assigned them by the City Clerk and, in the City Clerk's temporary absence or disability, shall perform the duties of the City Clerk.
- f. The City Clerk ~~of the City of Coconut Creek shall be the filing officer official representative of the City Commission in all transactions with the Supervisor of Elections of Broward County, Florida, in relation to all matters pertaining to the use of registration books and records herein mentioned for holding such municipal elections.~~
- g. The Clerk may create, reproduce, convert and store the City public records in the most economical and efficient manner available and in the best interest of the City as provided by Florida Statutes and Administrative Code and Rules absent any lawful or administrative exemptions to the contrary.

After some brief discussion, the consensus of the Board was to accept the changes as presented.

Section 501 - Organization of Boards and Committees

The proposed revisions for this section are as follows:

Boards and Committees created in accordance with this Charter shall elect their officers from the appointed members and shall determine their rules of procedure subject to the provisions of this Charter that apply. Any vacancy on a Board or Committee shall be filled as provided by ordinance. ~~by appointment by a majority vote of the Commission.~~ Nominees to all Boards and Committees appointed by the Commission are not required to reside in the District represented by the nominating Commissioner except for Charter Review Board and Redistricting Board.

Chair Barker asked why the language was being removed regarding appointments of Board Members being made by a majority vote of the commission. Deputy City Attorney Mehaffey explained that a new ordinance was recently passed (Ordinance 2019-033), which clarifies the procedures. The removal of the language from the Charter allows for the ordinance to implement the process, which is a standard procedure for board appointments. Discussion ensued regarding the change in the last sentence relating to the Charter Review Board and the Redistricting Board. Deputy City Attorney Mehaffey explained that the Charter requires members of these two Boards to reside within the District he/she is representing.

The consensus of the Board was to accept the changes as presented.

Section 602 - Commission Action on Budget and Five-Year Capital Program

The proposed revisions for this section are as follows:

Section 602. - Commission Action on Budget and Five-Year Capital Improvement Program.

b. Five-Year Capital Improvement Program.

Notice and Hearing. The Commission shall provide notice and public hearing on the capital program in accordance with state law. ~~publish in one or more newspapers of general circulation in the City a notice of adoption stating:~~

1. ~~The times and places where copies of the capital program are available for inspection by the public, and~~

2. ~~The time and place, not less than two (2) weeks after such publication of notice, for a public hearing on the capital program.~~

Deputy City Attorney Mehaffey explained that the reason for the changes to this section was to clean-up the notice provisions so that the Charter was in compliance with state law, and adding the word improvement to coincide with the actual legal term.

The consensus of the Board was to accept the changes as presented.

Section 707 - Calling an Election by Resolution

The proposed revisions for this section are as follows:

Section 707. - Calling an Election by Resolution.

All elections shall be called by resolution of the City Commission, adopted not less than thirty (30) days before such election, and shall be conducted under the provisions of the General Election Laws of the State and this Charter.

Chair Barker asked for clarification on why the changes were being requested. City Clerk May explained that this was an unnecessary step in the process as state law provides for the election process and notification.

The consensus of the Board was to accept the changes as presented.

Section 708 - Elections; How Arranged For; Inspectors and Clerks

The proposed revisions for this section are as follows:

Section 708. - Elections; How Arranged For; Notice ~~Inspectors and Clerks.~~

The City Clerk shall make all necessary arrangements for the holding of all City elections. The City Clerk ~~may shall employ or contract with the Broward County Supervisor of Elections for administrative services to conduct municipal elections within the City. a sufficient number of clerks and inspectors to adequately staff each polling place, and shall employ or contract with the Supervisor of Elections for at least four (4) pollworkers at each polling place. The City Commission shall state in the resolution calling each election, the different offices to be filled or questions to be decided, and shall state the address of every polling place. The City Clerk shall provide notice in accordance with state law. cause the notice of election to be published in a newspaper of general circulation in accordance with the laws of the State of Florida once in the second week and once in the fourth week prior to the week in which the election is to be held. The official ballot shall be published in a newspaper of general circulation on the Sunday immediately preceding the election, in not less than one-quarter page size. The ballot advertisement shall state:~~

*"NOTICE OF CITY ELECTION, CITY OF COCONUT CREEK, FLORIDA: The following is the official ballot of the City of Coconut Creek, Florida. Persons wishing further information may contact the City Clerk's office at City Hall during normal business hours."
~~The month, day and year of the election and the City Clerk's name, City Hall address and telephone number shall be included in the advertisement.~~*

The consensus of the Board was to accept the changes as presented.

Article VIII – Initiative, Referendum and Recall

Deputy City Attorney Mehaffey noted that all of the sections within this Charter Article pertained to Initiative, Referendum and Recall. She reminded the Board that the proposed changes related to Notice have been implemented and that the Board had previously designated these sections for more extensive discussion and looking at some overall clean-up to simplify the language. She asked if the Board wanted legal to perform a streamlining rewrite or if the Board wanted to discuss each section and provide Legal with general ideas for changes. Chair Barker asked if any of the language was in conflict with state law. Deputy City Attorney Mehaffey stated that Section 804 could be cleaned-up by removing the items that are not subject to referendum. Mr. Barker asked if there was anything in the Article that was substantive clean-up. Deputy City Attorney Mehaffey stated that Legal would do a more thorough review to see what could easily be consolidated or cleaned-up and make sure there were no other issues. She said Legal would bring back clearer language for the Boards review.

Section 907 – Charter Review, Charter Review Board

The proposed revisions are as follows:

In ~~April/January, 2030/1980~~, and every ten (10) ~~five (5)~~ years thereafter, the Commission shall in January appoint a Charter Review Board consisting of five (5) electors of the City, one (1) from each district, holding no other office, appointment or employment in the government of the City of Coconut Creek except on advisory bodies of the City. In addition, the Commission may appoint a Charter Review Board at any other time as it may deem necessary or desirable. Such Board shall review the Municipal Charter, and within one hundred twenty (120) days after such appointment, submit to the Commission such alteration, revisions, and

amendments, if any, to this Charter, as in its judgment are desirable. The Commission shall submit to the electors not later than the next succeeding general election or municipal election any such proposed alterations, revisions, or amendments. The members appointed to said Board shall serve without compensation and their terms shall expire one hundred twenty (120) days after their appointment.

Discussion ensued regarding this section being a means for the residents to be involved and infused into the government process and the significant amount of staff time used. Deputy City Attorney Mehaffey referenced the results of the survey of other Broward County cities. Discussion ensued about extending the time and bringing this section back for discussion.

Deputy City Attorney Mehaffey noted that Legal had an additional change to the section and read the following proposed corrections to the language:

The Commission shall submit to the electors ~~not later than~~ at the next succeeding general election, ~~or municipal election, or special election~~ any such proposed alterations, revisions, or amendments.

She explained that the language, “not later than” could be interpreted different ways, and that Legal recommended the proposed changes in order to clarify the language and allow for the referendums to go on a special election.

Section 908 – Authority of Commission to Divide City into Voting Districts; (Re-Districting Board)

The proposed revisions for this section are as follows:

The Commission, by ordinance and in accordance with the Laws of the State of Florida shall divide the City into voting districts. The Commission, by the same procedure and laws, may re-district the City. The City Commission shall establish and appoint a Re-Districting Board, consisting of five (5) electors of the City holding no other office, except on advisory bodies of the City, one (1) from each district, every five (5) years commencing on or by July 15, 2028 ~~August 1, 2008~~ and each succeeding ten (10) ~~five (5)~~ years thereafter. The City Commission shall, however, have the right to appoint a Re-Districting Board at any time upon a determination that population variances between districts require action. The terms of the members thereof shall expire one hundred twenty (120) ~~ninety (90)~~ days following appointment. The Re-Districting Board shall within one hundred twenty (120) ~~ninety (90)~~ days of appointment submit a report to the City Commission outlining the need for a re-districting, if any, and the recommendations with regard thereto. The City Commission shall, upon a determination by it of the need to re-district, amend by ordinance the boundaries of the existing voting districts

Mr. Hall wanted to know how the City determines the number of people in the City. Deputy City Attorney Mehaffey said she would need to look at what was done in the past. She explained that, depending on the year the redistricting is done the most current data would be used, which could be the Census or other population models. Mr. Hall stated that the Census is every ten years on the odd year, next year the City has an election in March and there would not be a redistricting between the time the Census was done and the March election. He suggested changing the language to say that redistricting would be done within two years of the published Census results. Mr. Barker agreed. Mr. Hall suggested coming up with some type of time schedule. Ms. Finley said she would review her notes from when she served on the Re-Districting Board. Deputy City

Attorney Mehaffey provided an explanation based on the report from the prior Re-Districting Board for the process for configuring the population. Discussion ensued on how to structure the change. Mr. Barker said he liked the idea of extending the convening of the Re-Districting Board if there was not going to be a grand shift in the population once the MainStreet area was finished. He asked when the Re-Districting Board was last convened, and Deputy City Attorney Mehaffey responded that it was held in 2018 and was due again in 2023. She clarified that if the ten years was implemented, then the next convening would be in 2028. She would need to check with Sustainable Development to figure out the time frame. Mr. Hall said that there would need to be an interim convening held in 2022 before starting the new schedule. Deputy City Attorney Mehaffey gave an alternative of pushing it out the first ten years since there would be some time before MainStreet was developed. Discussion ensued about pushing out the next convening to either 2031 or 2032. Mr. Barker stated that the Board needed to know when the Census data becomes available. Discussion ensued regarding different time frames, and Mr. Barker asked for Sustainable Development's opinion on a date of 2026 for the next convening of the Re-Districting Board, and then again in 2031 or 2032 and every ten years thereafter, to make sure it would not do anything detrimental to the development of MainStreet.

Deputy City Attorney Mehaffey requested that at the next meeting, for the Board to discuss four of the five discussion items that she had previously emailed to them. She said once those four items were discussed, she proposed for the Board to start reviewing the Charter section by section. The Board was in agreement to review the email and be ready to discuss it at the next meeting.

6. SETTING OF MARCH MEETING DATES

City Clerk May noted that the P&Z meeting room had been reserved for the Charter Review Board Meetings for every Monday at 6 PM through the month of May. She asked the Board if they wished to continue with the weekly meeting schedule. Discussion ensued that one member would be out on March 23 and two would be out on March 30. The Board was in agreement to schedule the March 9 and March 16 dates and to confirm the other dates later.

7. ADJOURNMENT

The meeting was adjourned at 7:54 PM.

Transcribed by: Leslie Wallace May



Leslie Wallace May
Leslie Wallace May, MMC, City Clerk

3/9/2020

Date