

Minutes

Charter Review Commission

The City of Daytona Beach, Florida

February 4, 2014

Minutes of the Charter Review Commission of The City of Daytona Beach, Florida, held on Tuesday, February 4, 2014 at 6:00 p.m., City Hall, City Commission Chambers, 301 S. Ridgewood Avenue, Daytona Beach, Florida.

Attendance.

Members

Gary Libby	Present
Blaine Lansberry	Present
Kelly Kwiatek	Present
Thomas Leek	Present
Willie Kimmons	Present
L. Roland Blossom	Excused
Glenn S. Ritchey, Chairman	Present

Alternate Members

Ruth Trager	Present
Ed Savard	Present
Dan Bolerjack	Present
Jill Pennington	Absent
Christi McGee	Absent
Tony Barhoo	Absent
Vacant	

Also Present:

Marie Hartman, City Attorney
Ron McLemore, Deputy City Manager/Public Works
Jennifer L. Thomas, City Clerk

Mr. Libby made a motion to excuse Mr. Blossom. Seconded by Dr. Kimmons. The motion passed unanimously.

1. Welcome

Glenn Ritchey, Chairman stated tonight they need to identify some discussion items to move forward with and to have for the Town Hall Meetings. We will list them on the board up here and will be captured by the staff recording the meeting. He welcomed Mr. Huger who will be the Alternate for Zone 6. He thanked the audience and all the alternates for joining them.

2. Discussion – Charter Review Commission

Thomas Leek stated he had gone through item by item in the charter and noted whether or not it should have a change and whether or not it should be discussed.

Mr. Ritchey asked Mr. Leek to discuss only the items that he wants to bring forward for change and/or discussion.

Mr. Leek stated the first item he had was Section 6, under the Planning and Zoning Powers. He would like to discuss the Planning Board number of seats and makeup. The next item would be the powers of the Mayor and the Commission, Section 14, 15, and 16. Next item would be Article 6, Section 27; on the residency of the City Manager. Again under Article 6, Section 28, he believes there needs to be some discussion about financial reporting on the part of the City Manager. Under Section 7, Item 31, we need to discuss outsourcing of the City Attorney duties. Article 10, Section 46, the Charter Review Commission; he thinks they should talk about the number of years between mandatory reviews.

Mr. Ritchey clarified that on the number of years for the Charter Review Commission.

Mr. Leek stated he feels it should be done every four or five years.

Mr. Ritchey stated he believes there is flexibility in there, but he isn't sure.

Mr. Libby stated he had a couple. He asked if the City Attorney had decided for them if they were in sync with the state on the Initiatives and Referendums.

Marie Hartman, City Attorney stated she does not recall them asking her that. Those provisions of our charter predate the change to Home Rule. We have statutes which prescribe the manner in which the charter can be amended. We can supplement those provisions but we have to allow to the extent the state law provides the structure for how an amendment goes through. Our charter does conflict with the state in some instances. In those cases the state statute takes precedence. We could amend that to be consistent with state law ...

Mr. Libby stated he would like to add that to his list; to revisit the zone requirement and the affidavit of circulatory requirement. He believes we should match the County at five percent.

Ms. Hartman stated the state statute sets it at 10 percent.

Mr. Libby stated under financial disclosure he would like our charter to address third-party independent expenditures in City Elections. He suggests that the contributors be listed. It's Article 8. Under City Manager he would like to look at sharing of agenda powers between the City Manager and the City Commission. He suggested a Fair-Share Amendment to equitably share the burden and benefits of City Facilities among other communities is approached by a yearly published map and explanation of where City resources go. The

Commission only visits maybe 10 or 15 percent. A lot of them are part of the business of the City. He knows a lot of cities going for a Fair-Share stipulation. He agreed with Mr. Leek on the Advisory Board section.

Blaine Lansberry stated between Mr. Libby and Mr. Leek her issues had been covered.

Kelly Kwiatek stated between Mr. Libby and Mr. Leek her issues have also been covered.

Dr. Kimmons stated my colleagues have done a great job and I do have a few things to share with the board. I looked at Article 2 that dealt with zones; I often wondered do we need six zones or four zones and I think we need to look at that as we are growing as a City. Another thing that Mr. Libby mentioned was that the services, if you look at the zones we do not represent ourselves, we represent a zone and we represent the citizens in that zone. I am looking at where resources are business and industry, infrastructure, housing. If you look at zones one through four, it has a different make up as five and six and so do we really need four or do we need six. So I think we really need to look at the zones. The reason I say that because I want to expand the resources, it looks like the resources are going in one, two, three and four versus five and six, in terms of business and industry and fair housing. I could tell you the number of houses that are in foreclosure and boarded up in five and six, in comparison. Look at Article 6, the City Commissioner ties in to that same item four versus six. Article 6 the City Manager form of government, after reading the charter review research study, for example the document is a good piece of research. When I looked at the document it was contractually done by a research firm based on the former administration because all the inferences throughout the document gave three or four examples. He passes around his drawing stating he wanted to share it. I think we need to look at the organization structure. It gives the appearance, if the current structure is feasible and working fine but organizational structures do not do anything with personalities in terms of the way people manage. The current structure gives in my opinion all the power to a person that is not an elected official and the people that elect people, I think that is where the power should be. So if you look at the organization structure I have the elected officials, the Mayor and City Commissioners should be responsible to the citizens but if you look at the current structure that we have in place, the City Manager runs the day to day operation of the City who is not an elected official who supposedly reports through the City Commission and the Mayor and that can be a tremendous problem. A concern in when you look at the lines of demarcation and you look at span of control, it makes it very difficult and the reason I say this is because in some structure you have a person saying I do not want you to talk to the Mayor or City Commissioner. I think it stagnates information; it is a huge morale problem. If you look at Article 6 there is a lot of information about the powers, duties and responsibilities of the City Manager.

Mr. Ritchey stated ok that would be some good homework for us, but organizational structure is your point.

Dr. Kimmons stated other than that my colleagues have covered ... This is just for clarification I noticed in the document it talks about nominating officers and I am trying to figure out who makes up the agenda. Do we get input from the board and this is a valid point because I submitted agenda items twice and I am looking through the document and it has duties and responsibilities of the Chair but it does not have any duties or responsibilities of the Vice Chair so it looks like the research team made it based on the existing organizational structure of City Hall. What happens if the Chair is not here. So the Vice Chair needs to know what is going on and I do not want to be kept out the loop but I need to know what is going on. I do not need to have to define my role and I look in the document and there is nothing in there that deals with the duties and responsibilities of the Vice Chair. He expressed his concern about the Vice Chair.

Mr. Ritchey stated no. We are all sitting here to do the job that we have been asked to do and we all have one vote. Obviously the Vice Chair in the event I am unable to be here unless I get impeached then those duties would transfer to you absolutely, but you want to document it.

Dr. Kimmons stated when you give me something to read I am going to digest it. So what is the role of the Vice Chair. If you are look in the document it talks about people having input with diverse backgrounds and a good argument is good for a good charter and we do not want to suppress any information. I just thought about the June 18th meeting, for an example as a Vice Chair I would like to attend that meeting alongside with the Chair to represent, to show that we have diversity, to show we have a balance and show that we have unity in our recommendations. That is my comment as Vice Chair.

Mr. Ritchey stated was there anything that said you were not able to attend that meeting.

Dr. Kimmons answered no my colleague said that the Chair would attend the meeting and represent the charter.

Mr. Ritchey stated we're all invited. I want everybody to be here and you can address the Commission just the same.

Dr. Kimmons stated trust me I wrote down everything we said, the minutes will reflect that. Now we just said that the Chair was going to attend the meeting, only the Chair was going to attend the meeting on June 18th.

Mr. Ritchey stated we can sure change that. That is not an issue

Dr. Kimmons stated those are my issues.

Mr. Ritchey stated Ron I will be brief and will not talk about solutions right now; I want to talk about issues. We need to review all language regarding eminent domain that is in our charter because a lot of it is obsolete, some of it is not but we need to identify that and have our City Attorney report to us. We need to review the language in the City Charter dealing with beach access which we have absolutely no control over it, it is a County issue. Also the City Manager should be required to live in the City.

Mr. Leek asked if I could add the Police Chief and Fire Chief to that list.

Mr. Ritchey stated he believed they both do live in the City. We do have other department heads that do not live in the City; there is good reason why they don't and they were hired with that understanding. We should now include that the department heads are required to live in the City. We need to also include some language that deals with Request for Proposals (RFP) and interference by elected officials or appointed officials after the RFP has been submitted. We should have the ability to have the City Commission be given the authority to go outside for counsel dealing with legal issues. We should consider after an election that the Vice Mayor's position be given to a Commissioner with very little experience with an eye toward the rotation that is involved in our elections. We need to take a look at that position and whether they should be in office for three months. The section for 31C that states the City Attorney should review and approve all contracts should be changed. It should possibly read that they have been reviewed and recommended to the City Commission for approval. The same language should be for the Assistant City Attorney; at this time it states the Assistant City Attorney in the City Attorney's absence can approve contracts. Our City should be held to the same standards on the properties they own as we expect from our own citizens; it should be a budgeted item so that way we can be proud of our City owned buildings and properties. I need a clarification on how an offer to pay for an elected official's lunch should be viewed as pertaining to the law.

Mr. Libby asked if that would fit under a conflict of interest and maybe revisit that policy.

Ms. Hartman stated it would generally be under ethics ...

Mr. Libby stated rather than conflict of interest.

Dr. Kimmons asked about gifts.

Mr. Ritchey stated it is all the same thing; ethics. We do not want to see anyone get into trouble with the law.

Mr. Libby stated that personally I am at ease with no term limits in our City and I am somewhat at ease with our terms of office of any elected office which was the end result of our last charter review. I would not like to have people think we overlooked it when we were conscious of it because it is a burning issue nationwide.

Mr. Leek stated it can be some healthy dialogue in terms of what a decent term is and depending on what the candidate brings to the table.

Mr. Ritchey stated that is terms of office.

Dr. Kimmons stated you may have already thought of contract limitations for consultants; is that in there.

Mr. Ritchey stated yes it is. That also brings up a point ... I noticed when reading the charter that the Commission can hire an accounting firm and not go out with an Request for Proposal (RFP) or bid process. If you go out with a bid and a low bidder gets it ... however if you go out with an RFP you do not necessarily have to take the low bidder. I would like to make sure we do have the opportunity to bid that job because it is an expensive undertaking; I think we should have an RFP.

Ms. Hartman stated there is a state statute which sets some very specific requirements about hiring an auditor.

Mr. Ritchey stated in our charter it says the Commission can go out without a bid.

Ms. Hartman stated yes and the state statute requires an appointment of an auditor selection committee. It is a very specific procedure and important process.

Mr. Ritchey stated we should adopt the state's language and take ours out. Those are some of the things we have as far as redundancies which are good and they will be identified and passed out. At this point, I would like to hear any public input from anyone here in attendance. We do have sign in sheets.

Greg Gimbert thanked the Committee for their service. He hoped the first thing; the most important thing they would deal with is initiative and referendum. He believed our City Attorney was tasked with bringing back specific instances where our charter was in conflict with state law. It appears she did not take the opportunity to follow up on that, he hopes they will. Early into it, they talked about zone requirements, the affidavit of the circulator; most importantly the 20 percent threshold to get a sensitive initiative on the ballot. Mr. Libby inferred that we might want to take a look at the County and lower that to five percent where Ms. Hartman weighed in and said whoa the state says 10 leaving you guys to believe that you have to have 10 percent and that the County is not in line with the law; that is patently false. He explained the state statute. He gave a history of past charter amendment items and his dealings with Ms. Hartman in court regarding those amendments.

Ms. Hartman clarified that she agreed with Mr. Gimbert on the 10 percent, she was thinking of what the state statute required; 10 percent is the most that we can require, you are correct and we could allow less than that. We can be less stringent than what the state law requires but we cannot be more stringent.

02-04-14

Mr. Gimbert stated I accept your apology.

Mr. Ritchey stated the important issue is that it is on as a discussion item. The input and clarification given insures that it will be a very good topic of discussion.

Mr. Gimbert commented on the affidavit of the circulator. He gave an example of his experience with getting 10 percent signatures from registered voters and affidavits from every human who collected signatures. You do not need an affidavit of the circulator when Ann McFall, the only person who can validate those signatures because she has the cards to match the signatures with. He asked that they consider taking out the affidavit of the circulator on its base, it's useless.

Mr. Ritchey stated that will become part of a discussion point because if we didn't want public input we wouldn't be asking for it, nothing is going to be dismissed offhandedly.

Mr. Gimbert continued with his comments concerning the affidavit of the circulator.

Mr. Ritchey stated we got it.

Dr. Kimmons stated to Mr. Gimbert your comments are appropriate.

Mr. Gimbert stated zone requirement, another thing in our charter patently illegal. He gave his reasons.

Weegie Kuendig asked if we take out all the language that conflicts with the state, how long a document is that going to be to put on the ballot. Is that something that is going to be really burdensome for people to look at. She asked about the Consent Agenda, she did not know if it had to do with statute or charter, her concern was the amount that can be spent without any discussion whatsoever and she knows that the Commission can pull any item so that they can talk about it.

Mr. Ritchey stated if he understands her correctly, she is proposing limits, for instance if an item is over \$50,000 it should be on the regular agenda for discussion rather than on consent.

Mr. Libby asked if Mr. Gimbert could come back up.

Mr. Ritchey stated if there were no other speaker that was fine, but he didn't want one individual to take up all the speaking time.

Dr. Kimmons asked Mr. Gimbert to give examples.

Mr. Gimbert listed his examples of the Article 9, Initiative and Referendum changes he would like to see. He would like to see whole sections removed to match the state.

Mr. Leek stated he read the requirements for the Circulatory and interpreted them differently than Mr. Gimbert.

Mr. Gimbert stated in the court case he was involved in with the City over petitions it was an argument in the case.

Mr. Leek stated it works the way we read it.

Mr. Gimbert read the section aloud for the Commission. He argued that the requirement to make sure the signers are who they say they are isn't the petitioner's responsibility. It's the Supervisor of Elections job.

Dr. Kimmons stated he misunderstood Mr. Gimbert's concern. He thought it was a check and balance to make sure people weren't turning in invalid petitions.

Mr. Gimbert stated that is the Supervisor of Elections job. They are the only ones to validate the signatures. If the signatures don't match the Supervisor throws them out. He suggested the current practice in the charter makes more work for the Supervisor and her staff, the City Clerk, and the petitioner.

Mr. Libby asked the City Attorney if a blanket amendment would be allowed to clean up the sections that don't currently match the state.

Ms. Hartman stated yes. When this was done in 1997 there was one ballot question to adopt a revised charter.

Mr. Gimbert stated he would like to see no items on the Consent Agenda over \$5,000.

Mr. Ritchey explained that the Commission has the right to, and have done so in the past, pull items they felt needed more discussion.

Mr. Gimbert stated people are also not allowed to speak on the Consent Agenda items. They needed to have a public vote on bonding of Community Redevelopment Area (CRA) dollars.

Mr. Libby stated there has also been discussion on having an elected CRA board.

Mr. Ritchey stated that would be discussed under the makeup of Boards. He asked Mr. McLemore to add it to the list. He asked Mrs. Thomas to take the charts and combine them. He asked that she include any emails that come in about tonight's meeting. He complimented the Charter Review Commission for their time and work. They are going to stay on point and not get off track during these meetings because they are all busy and their time is important. Their task is important and they want meaningful items brought forward. They will vote on these items and then take them to the City Commission and the City Commission will vote if they want to put these issues on the ballot. The ultimate decision makers will then be the Citizens who go to the polls and vote. He asked Mr. McLemore to pass out the draft Mission Statement for everyone's review.

02-04-14

Mr. Libby thanked staff for the Guide for Charter Commissions.

Mr. Ritchey stated it was very interesting. The City of Daytona Beach has a charter that is sort of hybrid. It's not straight down the middle.

Mr. Libby suggested another item to discuss; that as well as compressing the zones, that they have a Mayor and another At-Large position. It might be an interesting way to make sure there is adequate representation.

Mr. Ritchey stated the City used to run City-wide elections and it was problematic and it cost the City a lot of money to run those types of elections. They went to zones to insure the African American population had representation. We need to be careful what we change in the guise of improvement because you may actually be damaging our community at large. He just wanted to remind everyone how it used to be.

Dr. Kimmons stated if you look at the zones and you look at where the power bases are and the infrastructure ... that's his major concern. He is looking at dispersing the wealth and the disparities between the zones. He commended the Citizens for their input.

Mr. Ritchey stated he had heard arguments that we are different from the County Council, but we aren't that different. They have an elected Chair and we have an elected Mayor. The County Chair has one vote and the Mayor here has one vote. They do have an At-Large, but the powers of the County Chair are no more than the powers of the Mayor of The City of Daytona Beach.

Mr. Leek asked that the City Attorney provide a quick reference of everything in the charter that is in conflict with the state. Particularly in the areas they are going to have a discussion on.

Mr. Ritchey stated that fits in with his items about the County and the beach. He thanked everyone for coming and adjourned the meeting.

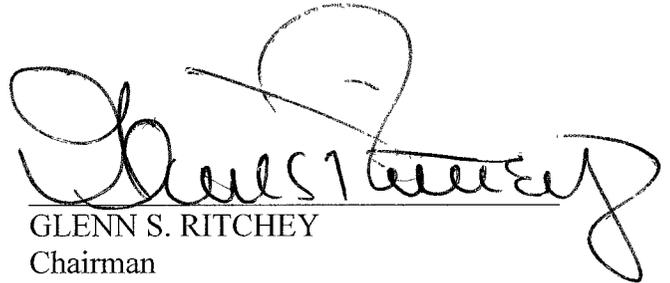
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3. Closing remarks

No comments.

4. ADJOURNMENT

There being no further discussion or comments the meeting was adjourned at 7:10 p.m.



GLENN S. RITCHEY
Chairman

ATTEST:



JENNIFER L. THOMAS
City Clerk

Adopted: April 15, 2014

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the City Commission makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a tape of the meeting for \$2.00 at the City Clerk's office. Copies of tapes are only made upon request. The City is not responsible for any mechanical failure of the recording equipment.