

MAYOR
Hal J. Rose

DEPUTY MAYOR
John Dittmore

COUNCIL MEMBERS
Daniel Batchelor
Pat Bentley
Adam Gaffney
Barbara A. Smith
Andrea Young



CITY HALL
2240 Minton Road
West Melbourne, FL 32904
Phone: (321) 837-7774
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www.westmelbourne.org

CHARTER REVIEW COMMITTEE

AGENDA

March 12, 2020

6:30 p.m.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF MINUTES**

The Committee is asked to approve the minutes of February 13, 2020.

5. **PROPOSED AMENDMENTS WITH BALLOT LANGUAGE**

Attached is a summary of the Committee's recommendations to date with suggested ballot language. The Committee is asked to review each change, which must pass by a super-majority vote before forwarding to City Council for consideration.

6. **PUBLIC COMMENTS**
7. **ADJOURNMENT**

All persons wishing to be heard should appear in person at these meetings or send written comments to the City Clerk. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City with respect to any matter considered at the public meeting or hearing described in this notice, they will need a record of the proceedings, and for such purpose, said person or party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286, Florida Statutes). In compliance with American with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City's ADA coordinator at 837-7774 at least 48 hours in advance of this meeting.

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CHARTER REVIEW COMMITTEE

MINUTES

February 13, 2020

1. CALL TO ORDER

Chair Stephen Phrampus called the meeting to order at 6:33 p.m. and led the pledge of allegiance.

2. ROLL CALL

Chair Phrampus congratulated Committee Member Michelson on winning Volunteer of the Year for 2019.

Present: Chair Stephen Phrampus, Committee Members Bill Mettrick, Sandra Carbon, Matthew Brothers, Chris Gibbs, and Sandra Michelson.

Absent: Vice-Chair Michelle Rutledge.

Also present: City Attorney Morris Richardson, City Clerk Cynthia Hanscom, and other members of the public.

Chair Phrampus moved to excuse Vice-Chair Michelle Rutledge. Committee Member Carbon seconded the motion, which passed 6-0.

3. APPROVAL OF MINUTES

Committee Member Mettrick moved to approve the minutes of January 9, 2020. Committee Member Brothers seconded the motion, which passed with a 6-0 vote.

4. REVIEW OF CHARTER

City Clerk Hanscom reminded the Committee that they had reviewed Article XIV with Planning Director Christy Fischer at the last meeting. Several suggestions were made for changes and the Committee discussed if the entire Article should be deleted as it was duplicated in the code. Staff conducted an analysis of what is shown in other charters and noted that the Charter for Melbourne was the most similar to West Melbourne. She explained that staff had met to discuss the changes and was

suggesting a modification to remove the sections of Article IV that were duplicated in the Code. The change would not remove the entire Article, but would only reference the Board of Adjustment and Planning and Zoning Board.

Chair Phrampus stated he thought the code was required to mimic the Charter. City Attorney Richardson explained that anything in the code could not contradict what was in the Charter but could add to it. Chair Phrampus stated that he would be opposed to removing all of the language in the Charter for this Article. Committee Member Michelson agreed stated that it was added in 2007 so there must have been a reason that the citizens felt it was needed. Committee Member Brothers stated that he was not surprised to see all of the language removed because he believed that was what the Committee had discussed and that it would allow more flexibility to modify the code.

City Attorney Richardson agreed and felt that “if it is was not broken, don’t fix it.” Therefore, minimum changes to the Board of Adjustment membership and changing the reference to special exception to conditional uses could be made.

City Attorney Richardson reviewed the process for a conditional use and how applications went before the Board of Adjustment. The listing of individuals with specific criteria was a way to ensure that those making the decisions had qualifications to do so. He noted that appeals to the Board of Adjustment would go to City Council which would strike a balance rather than go directly to court. The Committee discussed reducing the number of Board of Adjustment members having required criteria, but felt that it should remain at 4 members.

The Committee Members discussed the proposed changes and agreed that the word “professional” from Section 2(b)(4) could be deleted. Also, the reference to “special exception” should be changed to “conditional use.”

Chair Phrampus moved to amend Article XIV as stated above. Committee Member Mettrick seconded the motion, which passed 6-0.

Council Member Pat Bentley asked if the ballot language would be combined into one question. City Attorney Richardson believed that would be the case. Council Member Bentley expressed concern that the question could be voted down even if one of the items was something citizens would have approved.

5. REVIEW OF ARTICLE XII FIRE DEPARTMENT

Chair Phrampus asked that the Committee discuss modifying the language for Article XII Fire Department to include language for the fire chief similar to that for the chief of police. He noted that the cost of providing fire services in the City was \$3.5 million and there had been discussion that it may be less expensive for West Melbourne to provide their own fire department, not including the start-up costs.

Committee Member Gibbs asked why the change would be needed. Chair Phrampus noted that it ensure that the fire chief would fall under the direction of the city manager.

The Committee discussed the current agreement with Brevard County to provide services. Other members felt that it could be a good idea but the Charter language could be changed at that time if the City would decide to provide fire services.

Mayor Hal Rose commented that the City of Rockledge had combined the fire chief and the police chief to a public safety director position. If the City would move toward their own fire department in the future, doing something similar could be discussed.

6. RECONSIDERATION OF ARTICLE III, SECTION 7, COMPENSATION FOR MAYOR AND COUNCIL MEMBERS

The Committee asked to revisit the amendment to the Charter on compensation for elected officials. Additional information on Council compensation from other cities was presented by the City Clerk.

Committee Member Michelson suggested that the words “plus necessary and ordinary expenses” could be deleted because now there needs to be an expense report submitted when a Council Member travels. City Attorney Richardson stated that it could be deleted or moved to another part of that section that follows the language for the salaries. Committee Member Brothers commented that, if there is concern with raising the salary of Council and the additional ballot language included a change for “necessary and ordinary expenses,” the change could be viewed as adding something that was not currently being done.

Committee Member Michelson also asked if the CPI language could be deleted. City Clerk Hanscom stated that this allows for an increase for Council annually based on changes in the CPI.

Chair Phrampus asked if the current salary could be listed in the ballot language, because it appears that the salary is going from \$400 to \$600, which is not the case because of the CPI increases that have occurred over the last 10 years. Mayor Rose stated the numbers shown on the spreadsheet provided to the Committee were incorrect. The current annual salary for the Mayor is \$6608.28, with a monthly salary of \$550.69. The current annual salary for Council is \$5,873.76 with a monthly salary of \$489.48. He noted that the proposed change recommended by the Committee would be less than \$100 per month. Council Member Mettrick believed the current salary should not be included in the ballot language.

Committee Members discussed the current salaries and increasing the recommended amount proposed. Committee Member Brothers stated that the intent of the Committee was to provide enough funds so that the elected official would be able to obtain health insurance for the family and provide a \$200 a month increase. However, that was not the case.

Mayor Rose left the room so that Council Member Bentley could speak.

Council Member Bentley stated that he does not serve on Council for the money. Other members may need the money. Council salaries in comparison to other cities was

inequitable. In addition, other City officials would receive expense accounts. He stated that citizens really like living in West Melbourne and he believed the Council has done a good job. He disagreed with the comments provided by Harry Stapor and Charles Settgest in that increasing the salary would cause individuals to serve that do not necessarily have an interest in what is best for West Melbourne. He believed the Mayor and Council should be paid fairly.

Committee Members discussed what is being done in some communities where a formula is being used to determine the salary. City Attorney Richardson indicated that it would be better to have a flat amount.

Mayor Rose returned to the meeting as a member of the public.

Chair Phrampus moved to amend the monthly salary to \$800 for council and \$900 for mayor, with maintaining the annual increases for the CPI. Committee Member Carbon seconded the motion, which passed 6-0.

7. PROPOSED AMENDMENTS WITH BALLOT LANGUAGE

City Clerk Hanscom presented a summary of the Committee's recommendations to date with suggested ballot language. This does not include any changes from Article XIV. She explained that each of the items would need to pass by the Committee by a super majority. City Attorney Richardson reminded the Committee that Council would review the changes in the Charter and not necessarily the ballot questions initially.

Chair Phrampus asked what the voter would see. City Clerk Hanscom stated that the voter would only see the ballot questions and would not see the strike-through of the original charter language.

Chair Phrampus stated that each item would be reviewed at the meeting in March.

8. PUBLIC COMMENTS

There were no public comments.

9. ADJOURNMENT

There being no further business, Chair Phrampus adjourned the meeting at 7:53 p.m.

Chair Stephen Phrampus

Cynthia S. Hanscom, City Clerk

**Summary of Changes Proposed
by the Charter Review Committee**

ARTICLE III. CITY COUNCIL AND MAYOR

Section 5. - Deputy mayor.

The city council shall at its ~~first meeting following the general election meeting in the third week of November~~ each ~~and every~~ year, elect from among its members a deputy mayor who shall serve at the pleasure of the city council. The deputy mayor shall act as mayor with all of the powers and responsibilities provided herein during the absence or disability of the mayor.

Ballot Question #1. Amendment to the Charter relating to selection of Deputy Mayor.

Shall West Melbourne amend Article III, Section 5, of the City Charter to provide that the city council shall, at its meeting in the third week of November each and every year, elect from its members a deputy mayor.

YES – for adoption of the amendment []

NO – against adoption of the amendment []

Section 7. - Compensation for mayor and council members.

The ~~remuneration, including~~ salary plus necessary and ordinary expenses shall be ~~four~~ eight hundred dollars (\$~~48~~800.00) per month for Council Members and ~~four~~ nine hundred ~~fifty~~ dollars (\$~~45~~900.00) per month for the Mayor. The ~~remuneration salary~~ of the City Council and Mayor shall increase or decrease annually based on the change in the consumer price index (all urban consumers CPI-) from its value on January 1, 20~~21~~08. No increase in the ~~remuneration salary~~ of elected officials beyond that afforded by the CPI shall be effective unless such change is submitted and approved by a majority of the electors at a regular city election.

Ballot Question #2. Amendment to the Charter relating to compensation for mayor and council members.

Shall West Melbourne amend Article III, Section 7, of the City Charter to increase the monthly salary for council members to \$800 per month and the monthly salary for the mayor to \$900 per month.

YES – for adoption of the amendment []

NO – against adoption of the amendment []

Section 10. - Vacancies.

(a) A vacancy of the mayor's office shall occur upon the death, resignation, removal from office as authorized by law, or forfeiture of office of the mayor. When such a vacancy occurs, the deputy mayor shall assume the office of the mayor, and shall serve as mayor until the vacancy is filled in the following manner: a mayor is appointed by the council from among its members. Appointment of a mayor in such circumstances shall be by the affirmative vote of four (4) council members, with each member having but one vote. A mayor so appointed shall serve for the remainder of the unexpired term for mayor. A mayor so appointed shall resign his or her council seat and shall serve the remainder of the unexpired term for mayor.

(1) Ninety (90) days or more prior to the next regularly scheduled city council election. When a vacancy in the office of mayor occurs ninety (90) days or more prior the next generally scheduled city council election, the council shall appoint a mayor from among its members to serve until the next regularly scheduled city council election, at which time a person shall be elected to office for a term of four (4) years. In the event the council is unable to fill such vacancy in this manner within sixty (60) days after it occurs, the city clerk shall immediately call a special election to fill the vacancy for the remainder of the unexpired term.

(2) Within ninety (90) days of the next regularly scheduled city council election. When a vacancy of the office of mayor occurs within ninety (90) days of the next generally scheduled city council election, the council shall appoint a mayor from among its members to serve the remainder of the unexpired term for the vacant seat.

(3) Appointment of a mayor in the circumstances described in Section 10(a)(1) or 10(a)(2) above shall be by the affirmative vote of four (4) council members, with each member having but one vote. A mayor so appointed shall resign his or her council seat.

(b) A vacancy in the office of any city council member other than the mayor shall occur upon death, resignation, removal from office as authorized by law, or forfeiture of office of a such a council member. A vacancy on the city council shall be filled as follows: When such a vacancy occurs, the remaining council members shall appoint a person to fill the vacancy, except that no such appointment shall be made during the period between any election and the time the newly-elected council members are seated. Appointment of such a person shall be by the affirmative vote of four (4) council members, with each member having but one vote. Such a person shall meet the qualifications for council members specified in this Charter and shall serve the remainder of the unexpired term for the vacant seat.

(1) Ninety (90) days or more prior to the next regularly scheduled city council election. When a vacancy on the city council occurs ninety (90) days or more prior the next generally scheduled city council election, the council shall appoint a person to serve until the next regularly scheduled city council

election, at which time a person shall be elected to serve the remainder of the unexpired term, if any. In the event the council is unable to fill such vacancy in this manner within sixty (60) days after it occurs, the city clerk shall immediately call a special election to fill the vacancy.

(2) Within ninety (90) days of the next regularly scheduled city council election. When a vacancy on the city council occurs within ninety (90) days of the next generally scheduled city council election, the council shall appoint a person to serve the remainder of the unexpired term for the vacant seat.

(3) Any appointment of a person to serve as a council member shall be by the affirmative vote of at least four (4) council members, with each member having but one vote. Such a person shall meet the qualifications for council members specified in this Charter.

(1)(4) In an election in which seats for full and unexpired terms are to be filled, the three (3) candidates receiving the greatest number of votes shall be elected to the council seats having full terms. The candidate receiving the fourth greatest number of votes shall be determined elected to the council seat having the longest unexpired term, and those candidates successively receiving the next greatest numbers of votes shall be determined elected to the respective vacant seats having the next longest unexpired terms until all of the unexpired terms are so filled.

(b)(c) If the council shall fail to fill any vacancy within sixty (60) days after it occurs, the city clerk shall immediately call a special election to fill the vacancy. If vacancies should occur that would result in more than three (3) appointed council members (including the mayor) serving on the council, there shall be a special election called by the city clerk, pursuant to the election laws of the State of Florida, at the earliest possible date to fill such vacancies. These elective seat(s) shall serve the balance of the unexpired terms of the vacancies in question.

(c)(d) If, and in the event that, four (4) or more vacancies on the city council exist simultaneously for any reason, all such vacancies shall be filled by appointments of the governor of the State of Florida in the same manner that vacancies in state, district, or county offices are filled by such appointments, pursuant to F.S. § 114.04 (1977). In such event, the city clerk shall call and schedule a special election, pursuant to the election laws of the State of Florida, at the earliest possible date. All council members appointed by the governor pursuant to this paragraph shall serve only until their successors are elected and take office as a result of such special election. Council members elected in such special election shall serve for the duration of the unexpired terms of the vacancies in question. In such a special election, the candidate receiving the greatest number of votes shall be determined elected to the council seat having the longest unexpired term; and those candidates successively receiving the next greatest numbers of votes shall be determined elected to the respective vacant seats having the next longest unexpired terms.

Ballot Question #3. Amendment to the Charter relating to vacancies on city council or the mayor.

Shall West Melbourne amend Article III, Section 10, of the City Charter to provide that if the office of the mayor or any city council member becomes vacant, the remaining members of the city council shall appoint a qualified person to fill such office only until the next general election, unless the vacancy occurs less than 90 days prior to the election, in which case the person so appointed shall serve the remainder of the unexpired term for the vacant office.

YES – for adoption of the amendment []

NO – against adoption of the amendment []

ARTICLE IV. - ELECTIONS AND RECALL

Section 1. - Qualifying of candidates for office of city council.

Any elector of the City of West Melbourne, having the qualifications herein provided for city council members, and desiring to be a candidate for election as a city council member, shall file with the city clerk a qualifying statement in substantially the following form with the signatures of at least seventy-five (75) qualified voters, ~~as certified for the last general election.~~

"I am a candidate for a seat on the City Council in the election of _____ and I agree to serve if I am elected. I am a qualified voter in the State of Florida and I have resided in the City of West Melbourne, or in an area which has been annexed by the City of West Melbourne, for at least one (1) year immediately preceding my qualifications herein."

The city clerk shall have qualifying forms available for completion by any candidate who may request such a form. Such qualifying statements shall be filed during the qualifying period as established from time to time in the City Code of Ordinances.

Ballot Question #4. Amendment to the Charter relating to qualifying of candidates.

Shall West Melbourne amend Article IV, Section 1, of the City Charter to provide that any qualified voter of the City of West Melbourne may sign qualifying petitions for candidates for city council or mayor.

YES – for adoption of the amendment []

NO – against adoption of the amendment []

ARTICLE V. - CITY MANAGER

Section 4. - Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city and shall be responsible to the council for all the administration of city affairs placed in his charge by this Charter. The city manager shall have the following powers and duties:

- a) To hire, and when he deems it necessary for the good of the city, suspend or remove any city employees or officers, except those appointed by the council. He may authorize the head of any department under his direction or supervision to exercise such powers within the department, office or agency.
- b) Fix the compensation of city officers and employees within the pay schedules established by the city council.
- c) Direct and supervise the administration of all city departments, offices, and agencies, except as otherwise provided by this Charter, or by law.
- d) Attend meetings of city council and participate in discussions, but with no right to vote.
- e) See that all laws, provisions of this Charter, and acts of the council subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- f) Prepare and submit the annual budget, budget message, and capital program to the council, together with such other reports concerning city operations as the council may require; and administer the adopted budget, including certification of the budget, review of work programs and allotments, make requests for appropriation transfers. He shall also perform all functions as purchasing agent or appoint such agent.
- g) Submit complete reports on the finances and administrative activities of the city.
- h) Keep the council fully advised of the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he deems desirable.
- i) Execute contracts on behalf of the city, unless the council or Charter provide otherwise.
- j) Sign city checks.
- k) Perform such other duties as are specified in the Charter or as may be required by the council.
- l) Lead the city staff in such a manner as to fulfill the mission statement, goals, and objectives as established by the council.

The city council shall have the power to review any action of the city manager, ~~and may direct the city manager in any of his actions.~~

Ballot Question #5. Amendment to the Charter relating to Council providing direction to the city manager.

Shall West Melbourne amend Article V, Section 4, removing language relating to the city council's direction of the city manager in any of his actions.

YES – for adoption of the amendment []

NO – against adoption of the amendment []

ARTICLE XI. - POLICE DEPARTMENT

Section 1. - Establishment.

There shall be a police department which shall consist of a chief of police and such personnel as may be determined by the city council. The chief of police shall be the head of the police department ~~and shall be appointed by the city council.~~ The Chief of Police shall be appointed solely on the basis of education and experience in the accepted competencies and practices of law enforcement agency management. The Police Chief must be certified by the Florida Department of Law Enforcement within twelve (12) months of appointment.

Section 2. - Appointment and removal.

The chief of police shall be appointed and removed by the City Manager with at least four (4) concurring votes of the City Council. Once appointed, the chief of police shall report to the City Manager.

Section ~~22~~ 23. - Chief of police; duties and authority.

The chief of police and his designees shall aid in the enforcement of order and enforce the city's ordinances; shall execute all papers and processes of the city or its authorities, and shall perform such other duties as may be lawfully required of him.

Ballot Question #6. Amendment to the Charter relating to the reporting structure of the chief of police.

Shall West Melbourne amend Article XI, Sections 1 and 2, of the City Charter to provide general qualifications for the chief of police, and for the chief of police to be appointed and removed by the city manager with four (4) concurring votes of city council.

YES – for adoption of the amendment []

NO – against adoption of the amendment []

ARTICLE XIV. - PLANNING AND ZONING

Section 2. - Board of adjustment.

a) *Powers and duties.* There is hereby established a board of adjustment which shall have the following powers:

1. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the planning and zoning board.
2. To hear and decide applications for ~~special exemptions~~ conditional uses to the terms and provisions of any planning and zoning ordinance adopted by the city council.
3. To authorize upon appeal any specific cases such variance from the terms of any planning and zoning ordinance as will not be contrary to the public interest, where as a result of special conditions a literal enforcement of the provisions of the said ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above powers the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as may be required in order to do justice.

b) *Composition of board of adjustment.* The city council shall appoint a board of seven (7) persons. None of the appointed members of the board of adjustment shall hold any other public office or position in the government of the city and all members shall be residents of and registered voters within the city. At least four (4) of the members of the board of adjustment shall have previously served:

- 1) On a planning/zoning board; or
- 2) On a code enforcement board; or
- 3) As an elected municipal officer, or
- 4) As a ~~professional~~ member of a planning organization.

The board shall select a chairman from among its members. The ordinance establishing the appointed board of adjustment shall specify the terms of office of the members, officers of the board and other matters affecting the board not otherwise provided in the Charter.

c) *Voting requirements for board of adjustment.* The concurring vote of five (5) members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of the planning and zoning board or to grant any variance. The concurring vote of four (4) members of the board of adjustment shall be necessary in order for the board to decide any other matter.

- d) *Appeals from decisions from the board of adjustment.* Any officer of the city, or any other party aggrieved by any decision of the board of adjustment may appeal to the city council for a hearing within thirty (30) days of the board of adjustment decision.

Ballot Question #7. Amendment to the Charter relating to powers and duties and composition of the board of adjustment.

Shall West Melbourne amend Article XIV, Section 2, to clarify that the duties of the board of adjustment include hearing and deciding applications for conditional uses, and that a board member's previous service as a member of a planning organization may be applied toward the requirement that at least four members of the board have experience relevant to the board's duties.

YES – for adoption of the amendment []

NO – against adoption of the amendment []