

MAYOR
Hal J. Rose

DEPUTY MAYOR
Pat Bentley

COUNCIL MEMBERS
Daniel Batchelder
John Dittmore
Adam Gaffney
Barbara A. Smith
Andrea Young



CITY HALL
2240 Minton Road
West Melbourne, FL 32904
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CHARTER REVIEW COMMITTEE

AGENDA

July 11, 2019, AT 6:30 p.m.
City Council Chambers

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

The Committee is asked to approve the minutes of June 13, 2019.

5. **SURVEY OF COUNCIL COMPENSATION**

As requested, a survey was conducted of those cities that were included in the salary and compensation survey of employees recently conducted for the City of West Melbourne by the consultant. Attached is the result of that survey.

6. **REVIEW OF CHARTER**

The committee is asked to begin their review of the Charter. Staff suggests that Articles I, II and III be discussed. The Committee may not get through all of Article III at this meeting and can continue to discuss certain sections at the August meeting. I have attached a copy of Articles I-III with suggested changes.

7. **PUBLIC COMMENTS**

8. **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

June 13, 2019

1. CALL TO ORDER

In the absence of a chair, City Clerk Cynthia Hanscom called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

City Clerk Hanscom led the Pledge of Allegiance.

3. ROLL CALL

Members present: Matthew Brothers, Sandra Carbon, Chris Gibbs, Bill Mettrick, Sandra Michelson, Stephen Phrampus, and Michele Rutledge.

Committee Member Michelson participated by telephone but would not be voting on selection of chair and vice-chair.

4. INTRODUCTION OF MEMBERS

The Committee members and staff introduced themselves.

5. ORGANIZATION OF CHARTER REVIEW COMMITTEE

Committee Member Mettrick nominated Ms. Rutledge for Chair. Committee Member Gibbs seconded the nomination.

Committee Member Phrampus nominated himself for Chair. Committee Member Brothers seconded the nomination.

In the roll call vote, the Committee selected Stephen Phrampus for Chair with a 6-0 vote.

Committee Member Mettrick nominated Ms. Rutledge for Vice-Chair. Chair Phrampus seconded the nomination. The vote was 6-0, for Ms. Rutledge as Vice-Chair.

6. SUNSHINE LAW REVIEW

City Attorney Morris Richardson provided an overview of the Florida Sunshine laws as it pertains to boards and committees. He reminded the Committee Members that the law would apply to this Board and any discussion with another member outside of the public meeting would be in violation.

7. INITIAL REVIEW OF CURRENT CHARTER

City Attorney Richardson provided an overview of the City Charter stating that it was the foundation of a local government. He noted that the Charter was composed by citizens and provides a framework of how a local government operates, the form of government, and provides the process of how public officials are elected.

He reminded the Committee that the Charter states in Article XV, Section 13(b): “At least once every ten (10) years after the adoption of this Charter and more often if the city council deems it necessary or desirable, the city council shall appoint a Charter Review Committee to review the City Charter and recommend additions, deletions, or changes to the city council for its consideration.”

City Attorney Richardson reviewed several parts of the charter including the Mayor and Council, form of government, and charter officers. He also reviewed some issues to consider, which included Chief of Police reporting, Council/Mayor vacancies, Council compensation, and selection of the Deputy Mayor.

Chair Phrampus asked if there was a trend toward term limits at the local level. City Attorney Richardson stated that the elected officials were basically volunteer with limited compensation; therefore, term limits may not be needed. He stated at the City level, if an elected official was not doing their job, the voters can vote them out.

Chair Phrampus also asked about the benefits for the Chief of Police to report to the City Manager. City Attorney Richardson stated that in his opinion it would be best for the Chief to report to the City Manager because it professionalized and depoliticized the position. In addition, it offered a layer of protection for the Chief of Police.

Chair Phrampus provided a list of issues to be considered by the Committee, which included the Chief of Police reporting, Council/Mayor vacancies, and Council compensation. He also suggested the Committee discuss allowing elected officials to be included with the City’s retirement plan. City Attorney Richardson stated there had been a historical discussion by the Council to add elected officials to the Florida Retirement System (FRS) plan. He noted that participating in the FRS would not require a change in the charter but could be in conflict with the charter language. He noted that a former member of the Charter Review Committee, Charles Settgest, had taken the position that “remuneration” should include any benefits. However, this is not how it has been interpreted. Therefore, the language for Council compensation may need to be modified.

Chair Phrampus also commented that appointments to advisory boards was not clear and could be more specific.

Chair Phrampus asked that a survey be conducted of Council salaries using the same city comparisons as those used for the market study for the compensation and salary study.

8. MEETING SCHEDULE

The Committee Members agreed to meet at 6:30 p.m. on the second Thursday of each month.

9. PUBLIC COMMENTS

Chair Phrampus opened the floor for public comments and reminded those present that the same 3-minute rule would apply as that for speaking before City Council.

Mayor Hal Rose, 2403 Woodfield Circle, commented that, given that there could be many amendments on the ballot for 2020, he suggested that the Committee prioritize those amendments that they felt would best serve the City.

Council Member John Dittmore, 2825 Tuscarora Court, thanked the Committee and wished them well.

10. ADJOURNMENT

Committee Member Mettrick moved to adjourn the meeting at 7:37 p.m. Committee Member Carbon seconded the motion, which passed with a 6-0 vote.

Chair Stephen Phrampus

Cynthia S. Hanscom, City Clerk

SURVEY OF ELECTED OFFICIAL COMPENSATION

City	No.	Compensation Received?	Mayor	Council	Health Benefits	Pension	Notes	Population	Form of Govt
Cocoa	5	Yes	6,600.00	6,000.00	Yes		Plus Monthly travel stipend: Mayor - \$450; Council - \$400	17,748	Council-Manager
Deland	5	Yes	16,300.00	11,600.00	Yes	No	Pay full cost of coverage	30,315	Commission-Manager
City of Fort Pierce	5	Yes	32,619.00	25,000.00	Yes	Yes	Plus annual car allowance of \$4,500	44,248	Commission-Manager
City of Kissimmee	5	Yes	28,000.00	28,000.00			Based on population; plus Mayor receives \$1200 annually and Vice-Mayor receives \$180 annually	68,176	Council-Manager
City of Melbourne	7	Yes	10,350.00	7,474.00	Yes	Yes	Plus monthly expense allowance; Mayor - \$415; Council - \$255	79,640	Council-Manager
City of Orlando	7	Yes	195,739.13	60,937.28	Yes	Yes		269,414	Strong Mayor-Council
Palm Bay	5	Yes	22,800.00	11,400.00	Yes	Yes- FRS	Plus monthly allotment: Mayor -\$200; Deputy Mayor - \$150 ; Council - \$100; Council compensation based on per capita	107,802	Council-Manager
City of Port St. Lucie	5	Yes	48,422.00	34,362.00	Yes	Yes - FRS		178,778	Council-Manager
Rockledge	7	Yes	6,600.00	6,000.00	Yes		Salary set by ordinance; eligible for health care but pay the full cost	26,497	Council-Manager
Satellite Beach	5	No					reimbursed for expenses	10,585	Council-Manager
Sebastian	5	Yes	5,400.00	3,600.00			2-yr terms	23,923	Council-Manager
St. Cloud	5	Yes	14,000.00	14,000.00	Yes	No		46,624	Council-Manager
Titusville	5	Yes	10,005.00	7,301.00	No	No	Life insurance of \$10,000	44,984	Council-Manager
Vero Beach	5	Yes	13,500.00	10,800.00	Yes	No		16,261	Council-Manager
West Melbourne	7	Yes	6,460.00	5,742.00	Yes	No	health insurance offered at that same level as employees; CPI increases	20,768	Council-Manager

EXCERPT FROM CHARTER, Articles I through III

ARTICLE I. - CREATION

There is hereby created a municipal corporation in the County of Brevard, State of Florida, to be known as the City of West Melbourne. The boundary description of the city is on file in the City Clerk's office. The corporate limits of the city may be extended and enlarged in compliance with the laws of the State of Florida.

(Ord. No. 2006-29, Exh. A, 9-5-2006/11-7-2006)

ARTICLE II. - CITY POWERS

The city shall have all of the powers, functions and immunities granted to municipal corporations by the Constitution and laws of the State of Florida, including the Municipal Home Rule Act, as now or hereinafter existing, together with the implied powers necessary to carry into execution all the powers granted. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and exercise all powers not otherwise prohibited to municipal corporations by the constitution and laws of this state.

State Law reference— Municipal home rule powers, F.S. ch. 166

ARTICLE III. - CITY COUNCIL AND MAYOR

Section 1. - Powers and duties.

- a) *General powers and duties.* All powers of the city shall be vested in an elected council, and an elected mayor, except as otherwise provided by law or by this Charter. The council shall provide for the exercise by the city of its municipal powers and for the performance of all duties and obligations imposed on the city by law.
- b) *Removal of members of boards, commissions or agencies.* Except as provided in this Charter, a member of any board or commission or agency of the city who has been appointed by the city council may be removed by the city council.
- c) *Investigations.* The City Council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in exercise of these powers by the Council shall be a misdemeanor punishable by applicable law.
- d) *Official bonds.* The city council shall determine whether or not each officer, clerk or employee of the city shall give bond, and the amount thereof, but all officers, clerks and employees authorized to sign checks or expend funds of the city shall be required to give bond to the city, which bond shall be procured from a regularly accredited surety company, authorized to do business in the State of Florida, the

premiums of such bond to be paid by the city. All such bonds shall be filed in the office of the city clerk.

(Ord. No. 2006-29, Exh. A, 9-5-2006/11-7-2006)

Section 2. - Reserved.

Editor's note— Ord. No. 2007-30, Exh. A, adopted Sept. 4, 2007 and approved by general election on Nov. 6, 2007, deleted § 2 of Art. III, which pertained to "limitations on powers of city council" and derived from Ord. No. 83-36, adopted Sept. 20, 1983.

Section 3. - Composition and qualifications of city council.

The city council shall consist of seven (7) members, which shall include the Mayor and six (6) council members holding consecutively numbered seats 1 through 6 all of whom shall be elected by the qualified voters of the city. Members of the city council shall have been residents of the city for at least one year prior to the date of qualification for office, shall continue to reside in the city during their entire term of office, and shall have the qualifications of a city elector.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988; Ord. No. 2006-29, Exh. A, 9-5-2006/11-7-2006)

Section 4. - Mayor.

The mayor shall be the presiding officer of the city council. The mayor may participate in deliberations of the city council and may make recommendations to the city council on any matter under consideration by the council. The mayor shall be entitled to cast a vote during council meetings in the same manner as any other council member.

The mayor shall be the head of the city government for ceremonial purposes, for the purposes of service of civil process, and for the purposes of martial law. The mayor shall execute all instruments to which the city is a party, as the city council may direct, unless otherwise provided by this Charter or by law.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988)

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.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988)

Section 6. - Terms of office.

After certification of the election, city council members shall take office at the commencement of "New Business" on the agenda of the next scheduled council meeting. If no meeting is scheduled, a special meeting must be held within twenty-one (21) days of certification of the election.

Council seats numbered 1, 2 and 3 shall be filled in a general election to be held in November 2012 for a term of four (4) years. Council seats numbered 4, 5, and 6 shall be filled in a general election to be held in November 2011 and shall remain in office for a term of three (3) years. The Officer of Mayor shall be filled in a general election to be held in November 2013 for a three year term. Beginning with the election to be held in November 2014 and each even numbered year thereafter, Council members and the Mayor shall be elected to office for a term of four (4) years, or until their successors are elected and qualified.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988; Ord. No. 2006-29, Exh. A, 9-5-2006/11-7-2006; Ord. No. 2010-16, §§ II, III, 7-6-2010/11-2-2010)

Section 7. - Compensation for mayor and council members.

The remuneration, including salary plus necessary and ordinary expenses, shall be four hundred dollars (\$400.00) per month for Council Members and four hundred fifty dollars (\$450.00) per month for the Mayor. The remuneration 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, 2008. No increase in the remuneration 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.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988; Ord. No. 01-23, Exh. A(IV), 8-21-2001/11-6-2001; Ord. No. 2007-30, Exh. A, 9-4-2007/11-6-2007)

Section 8. - Prohibitions for council members and the mayor.

- (a) *Holding other office.* Except where authorized by law, no council member shall hold any other city office or city employment during the terms for which he is elected to the city council, and no former member of the city council shall hold any compensated appointive city office or city employment until one year after the expiration of the terms for which he was elected. This provision shall not prevent participation in, nor compensation from, activities connected with any volunteer organization of the city.
- (b) *Interference with administration.* Except for the purpose of inquiries and investigations, the city council and its members shall deal with the city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988)

Section 9. - Forfeiture of office.

A council member shall forfeit that office if the council member:

- (1) Fails to meet the residency requirements,
- (2) Willfully violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988; Ord. No. 2006-29, Exh. A, 9-5-2006/11-7-2006)

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 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.

(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 or until the next even-numbered year of the general election, whichever is first. The candidate receiving the fourth highest number of votes at the general election shall serve in the vacated seat for a 2-year term.

(1) Sixty (60) days or more prior to the next regularly scheduled city council election. When a vacancy on the city council occurs sixty (60) 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 sixty (60) days of the next regularly scheduled city council election. When a vacancy on the city council occurs within sixty (60) 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.

(4)(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.

~~(e)~~(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.

Section 11. - Judge of qualifications.

The council shall be the sole judge of the election and qualifications of its members and for such purposes shall have the power to subpoena witnesses and require the production of evidence. The decision of the council in any such case shall be subject to review by the courts.

A council member accused of violating any of the conditions of Article III Section 9, obliging the immediate forfeiture of office may request a public hearing. If requested, this public hearing shall be held before the council votes on the motion. Concurrence of at least four (4) council members is required to sustain a council decision that the office must be immediately forfeited. Further, the accused shall not be entitled to vote on this forfeiture of office decision.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988; Ord. No. 2007-30, Exh. A, 9-4-2007/11-6-2007)

Section 12. - Council meetings.

- (a) The council shall meet regularly at such times and places as it may prescribe, but in no event less than once each month. All meetings of the council shall be open to the public, and all regular meetings shall be held at a specific time and place within the city limits.
- (b) Special meetings, limited to the subjects specified in the call, may be convened by the mayor or any other council member through the city manager. At least forty-eight (48) hours' notice shall be provided to each member and the public. A notice stating the time, place, and subject matter of said meeting shall be posted at the city hall. The council shall prescribe the means of serving or furnishing such notice to its members. The first order of business shall be the determination by a vote of four (4) members of the council that a special meeting is justified.
- (c) Emergency meetings may be convened by the mayor, or any other council member through the city manager, with the maximum reasonable period of notice given to each member and to the public, as prescribed by the council and state law. The first order of business shall be the determination, by a vote of at least seventy-five (75) percent of the council members present, that an emergency situation involving health, safety or public welfare warranting council action exists. Only matters relating to the emergency may be considered at said meeting.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988; Ord. No. 2006-29, Exh. A, 9-5-2006/11-7-2006; Ord. No. 2010-16, § I, 7-6-2010/11-2-2010)

Section 13. - Council quorum and rules.

- a) Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may require the attendance of absent members in such manner and under such penalties as the council may prescribe. No action of the council, except raising a quorum, shall be valid or binding unless adopted by the affirmative vote of at least four (4) members of the council. Voting shall be accomplished by having the presiding officer of the council request affirmative and negative votes. The total of affirmative and negative votes shall be recorded in the minutes of the council.
- b) The council shall determine its own rules and order of business, and shall provide for the keeping of a journal of its proceedings. The council may prescribe rules for expelling disorderly persons from its meetings.

(Ord. No. 88-24, Exh. A, 8-30-1988/11-8-1988)

Section 14. - Adoption of ordinances and resolutions.

Ordinances and resolutions shall be adopted as provided by the general law of the State of Florida.

State Law reference— Adoption procedure, F.S. § 166.041.

Section 15. - Adoption of codes of technical regulations.

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. Adopting ordinances shall be enacted as herein prescribed. Any adopted code of technical regulation shall be made available for distribution or purchase at reasonable cost.

State Law reference— Construction standards, F.S. ch. 553.

Section 16. - Voting requirements to settle litigation resulting from actions of the city council or board of adjustments relating to a development order.

When the City Council is considering settlement of litigation which litigation arises out of the actions of the City Council or Board of Adjustment concerning a development order, as that term is defined by Florida Statutes, Chapter 163.3164 and Chapter 62 of the City's Land Development Regulations, such settlement shall only be approved by the concurring vote of the same number of votes as is required to approve the development order which is the subject matter of the litigation.

(Ord. No. 01-23, Exh. A(I), 8-21-2001/11-6-2001)