

MAYOR
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DEPUTY MAYOR
Pat Bentley

COUNCIL MEMBERS
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CHARTER REVIEW COMMITTEE

MINUTES

October 10, 2019

1. CALL TO ORDER

Vice-Chair Michele Rutledge called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

Vice-Chair Rutledge led the pledge of allegiance.

3. ROLL CALL

Present: Vice-Chair Michele Rutledge, Committee Members Bill Mettrick, Chris Gibbs, Sandra Carbon, Matthew Brothers, and Sandra Michelson.

Absent: Chair Stephen Phrampus.

Also present: City Attorney Morris Richardson, City Clerk Cynthia Hanscom, and Mayor Hal Rose.

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

4. APPROVAL OF MINUTES

City Clerk Hanscom explained an issue with the wording of a motion by the Committee had been raised at the previous meeting for the minutes of July 11, 2019.

Committee Member Mettrick moved to approve the corrected minutes of July 11, 2019. Committee Member Gibbs seconded the motion, which passed 6-0.

Committee Member Mettrick moved to approve the minutes of September 12, 2019. Committee Member Carbon seconded the motion, which passed 6-0.

5. REMOTE PARTICIPATION

City Clerk Hanscom stated a suggestion had been made at a previous meeting to amend Section 8, prohibitions for council members and the mayor, to limit remote participation to three times per year. With the help of the City Attorney, language had been drafted adding a section (c) to Section 8.

Committee Members reviewed the draft language. City Attorney Richardson stated remote participation was covered in the Sunshine law and allowed it for extraordinary circumstances. He believed this language was better suited for Council's Meeting Rules. He noted this type of language was not typically found in the charter.

Committee Member Mettrick stated the current language had worked for many years. Committee Member Michelson agreed, noting the issue had only been considered a problem one time. She noted the individual attending remotely over several months in the past had also been instrumental in making good changes for the City. Given what the individual brought to the table, she did not consider it to be abuse.

Committee Member Brothers reminded the Committee that a member of the public had felt rather passionate about this issue. City Attorney Richardson stated it could be communicated to Council that limiting remote participation should be included in the Meeting Rules. All agreed this should be communicated to Council.

Committee Member Mettrick moved the change to include remote participation under prohibitions not be included in the recommendations to Council for charter amendments. Committee Member Gibbs seconded the motion, which passed 6-0.

6. REVIEW OF CHARTER

The Committee continued their review of the Charter, picking up with Article III, Section 10 – Vacancies. City Clerk Hanscom explained staff was proposing a change to this section to address how vacancies are filled on Council when it occurs mid-term. Because Council now has 4-year terms, a Council Member could resign within the first year and then Council would appoint a replacement for the remaining three years. The proposal was to have Council appoint a replacement, but the individual may not fill the entire term. She explained if the vacancy occurs 90 days prior to the City's general election, the 4th highest successful candidate would be selected for a 2-year term.

City Attorney Richardson explained this was being done to so voters will be heard. In some cities, there is the option to hold a special election, but there is a cost involved.

City Attorney Richardson also explained about the issue to resign to run. He provided the example that a Council Member could choose to run for another office and would be required to resign from their position on City Council. However, the resignation would need to be dated no later than the date the individual would take the seat if they were successful. Therefore, there is no opportunity to consider the seat for the City's general election because the resignation would take effect on Election Day. He would propose the resignation take effect when the resignation is submitted so the seat can be filled in the next general election. This may come back before the Committee.

City Clerk Hanscom provide two scenarios of a Council Member resigning and how the seat would be filled based on whether or not the effective date of the resignation occurred within the 90 days before a general election.

Committee Members discussed the process for filling a vacancy and the need to have qualified applicants for Council's selection.

Mayor Rose spoke on having a Council Member resignation to run for another elected office. He noted other cities have a similar position as suggested by the City Attorney so voters could select who fills the seat. He believed this was an important issue. He added there could be an issue if the vote is a tie to fill a vacancy, which would then require a special election to be held.

Committee Member Mettrick moved to make the change to the vacancy section as proposed by staff. Committee Member Michelson seconded the motion, which passed 6-0.

Committee Members then reviewed Article III, Sections 11-16, and had no suggestions for changes.

Next, the Committee reviewed Article IV, Section 1, which addressed qualifying of candidates for office. City Clerk Hanscom explained that the 75 signatures were required to come from registered voters from the last general election. However, since elections occur every two years rather than every year, this would mean voters would need to be a registered voter for almost two years before being eligible to sign a candidate's petition. The change would eliminate this requirement and allow for any voter in West Melbourne to sign the qualifying petition for Council or Mayor.

Committee Member Mettrick moved to amend Article IV, Section 1, as proposed. Committee Member Brothers seconded the motion, which passed 6-0.

Committee Members then discussed Section 3 of Article IV and discussed running at large versus by seat or district. No changes were proposed.

The Committee then reviewed Article V – City Manager. The Committee discussed whether the manager should be required to live in the City. Committee Member Brothers did not see a problem given the size of the City. If the City were larger geographically, residency should be required. Committee Member Mettrick noted a majority of the managers have bought houses in the City. Committee Members agreed it was important that the manager paid taxes to West Melbourne.

Mayor Rose commented it was important that the manager live in the City but did not believe this needed to be on the ballot. He believed living in the City allowed for the manager to be more involved in the community.

The Committee stated residency could be included in the negotiated contract.

Next, the Committee discussed the removal, the acting city manager, and the power and duties of the city manager.

City Attorney Richardson pointed out the last paragraph in the powers and duties of the city manager stated “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.” He stated this last sentence could cause some issues, particularly when fixing the compensation of employees. Council could direct the manager to pay one employee more money. However, Council has the power to dismiss the manager at any time. As a rule, the Council hires the manager and then does not meddle in the administration. City Attorney Richardson stated he was not making any recommendation for change but wanted the Committee to understand the meaning of this language.

Committee Member Gibbs stated having the title without the authority could be problematic. Committee Member Brothers agreed the phrase could erode the manager’s ability to act.

Vice-Chair Rutledge asked when the last paragraph was added. City Clerk Hanscom stated there was an amendment to this section in 2006 but that portion did not change. Therefore, it was part of the original charter.

Committee Member Michelson asked if there had been problems. City Attorney Richardson commented there had been times where he has reminded Council Members that certain issues were within the manager’s purview.

Council Member Mettrick agreed it was difficult for the manager when one elected official wanted something. He would prefer the language not be included.

Mayor Rose stated when Council wants to do something and there are four Council Members in favor, it will be the direction given to the manager. He stated the manager knows how to count even though he may not agree.

Committee Member Michelson suggested this be discussed at a future meeting. Vice-Chair Rutledge agreed and suggested this be tabled for further discussion.

7. PUBLIC COMMENTS

There were no comments from the public.

8. ADJOURNMENT

Committee Members discussed the next meeting and agreed to meet on Monday, November 11, 2019, at 6:30 p.m.

Committee Member Mettrick moved to adjourn the meeting at 7:55 p.m. Committee Member Carbon seconded the motion, which passed 6-0.