

## **City Commission Workshop on the City Charter June 18, 2020**

The Mayor and all Commissioners were present. City Staff present included the City Manager, Asst. City Manager, and City Attorney. Members of the now retired Charter Review Committee present were Marvel Richards, Lisa Martin and Tricia Tudeen.

### **PUBLIC PARTICIPATION:**

A member of the Turnbull Creek Preservation Committee was complimentary of the work done by the Charter Review Committee and the City Commission, especially the inclusion of language covering environmental stewardship and historic preservation.

Two presenters encouraged the City Commission to decide upon a single ballot question (voting YES or NO on the City Charter, as revised), instead of multiple questions being included on the ballot November 3. One of the speakers, representing the NSB Residents' Coalition, committed Coalition resources to help with Community education on the changes made to the Charter in the months leading up to election day.

A member of the Charter Review Committee wanted to ensure that Section 5 addressing environmental stewardship and added to the Charter by the Committee was still included. It was moved to Section 6 at the June 11 workshop.

### **CHARTER REVIEW DISCUSSION:**

Changes made to the [Draft Revised Charter](#) at the June 11 workshop were available in printed form at the meeting and used for discussion. The Mayor announced that there would be four major discussions during the meeting.

1. Final Review of Article VIII – Utilities Commission
2. Discussion and final wording for Sec. 6.04 (formerly 5.04) on the Sale, Lease, Trade or gifting of public land and structures
3. Comment and Input from the Commissioners on wording of other sections of the Charter decided at the June 11 workshop
4. Discussion on the proposed format for the ballot November 3 (single or multiple questions).

### **Article VII – Utilities Commission (UC)**

A short presentation was made by the UC General Manager, Joseph Bunch, who stressed that the UC is committed to maintaining a cooperative relationship with the City Commission.

Mayor Owen questioned sec 8.07 concerning UC Commissioners salary and expense. The UC commissioners are paid a monthly stipend of \$100. It was explained that the UC commissioners serve on a semi-autonomous Board and are not considered members of a committee or board advising the City Commission. The language and rate paid was established in 1967 and has remained unchanged since then.

Vice Mayor Kolody asked the UC if submitting a proposed budget for the upcoming year by June 1 worked for them. The City is required to submit a budget to the public by August 1 of each year. UC representatives said that the June 1 deadline was very tight, as May

is a particularly busy month but that they would abide by any decision the Commissioners made on the matter. Following discussion, the consensus of the Commission and City Staff was to change the requirement for a budget from the UC from June 1 to July 1.

The Commissioners had a few questions following its review of Article VIII of the Charter and particularly that it did not include language specific to the transfer of real property controlled by the UC and held jointly with the City. The Commission feels that language specific to the sale, trade or gift of property should be included in the revised Charter.

Tom Cloud, UC General Counsel and someone who works for, or has worked with, thirteen municipal public utility companies in Florida, spoke to his work with other cities on Charter language. When the NSB UC was originally established, all real property was titled as "Utilities Commission, City of New Smyrna Beach, Florida". That titling has continued.

The Utilities Commission needs flexibility when transferring title during the course of running the business. Mr. Cloud gave a short summary of UCNSB transfers and stated that the processes in place have worked well in the past. There is full cooperation between the City and the UC, with major transactions needing the approval of the City Commission. Vice Mayor Kolody asked if UC lands are held in common. Mr. Cloud again referred to the title and answered further that the UC is responsible to manage its real property holdings on behalf of the City.

Commissioner Sachs spoke to the maintenance of water quantity and quality controlled by UC lands owned west of I-95. Mr. Cloud referenced UC resolution 2-10 that prohibits the sale of lands west of I-95 without unanimous vote of the entire UC Board (appointed by the City Commission). He further stated that the UC is committed to maintaining water quality and has plans to dig 3-4 wells in that area. He stressed that the UC would never transfer lands of significance without the full involvement AND approval of the City Commission.

In 2018, the City of Bushnell (Sumter County, FL) adopted a Charter Provision addressing Limitation on alienation of city-owned real and personal or tangible property. Mayor Owen supported the format and language that lists the properties that cannot be sold, leased, traded or gifted without approval of the electors. Since this issue related to the second agenda item concerning proposed sec 6.04, the UC representatives were thanked and departed. In parting, Attorney Cloud committed to working with the City Attorney on any language changes to the Charter addressing the transfer of property in Article VII.

#### SEC 6.04 – the Sale, Lease, Trade or Gifting of Public Land and structures

Discussion followed, mostly centered around which properties would be included on the list and what criteria would be considered. Concern over the requirement for a referendum vote, when there seem to be so many included on the ballot now was raised by several commissioners. There were also questions about who would be responsible for creating and maintaining the list.

Mayor Owen had submitted possible wording for section 6.04 to include properties that were environmentally sensitive or historically significant and define leases covered as those having lease terms over 119 months. There were questions about where the list

would be located and when the initial listing would have to be determined. The City Attorney advised the Commission that the list of properties should be included within section 6.04 and would have to be set prior to the first reading to adopt the Charter language in full (July 28). The second reading is currently scheduled for the August 11 regular Commission meeting.

Commissioner Kolody disagreed with including city leases in section 6.04. Commissioner McGuirk suggested including language that highlights leases not reflective of "fair market value" lease rates. The City Manager pointed out that deed restrictions exist in some properties that might be considered for inclusion in the list. Deeds would have to be researched. Given the complexity of creating a list of properties prior to the July deadline, the City Attorney agreed to research the need to include the list of properties within the section and report back to the Commissioners in June.

A review and comments on the changes made at the June 11 workshop ensued. Commissioner Kolody brought up the need for language concerning term limits in section 2.04. The mayor also spoke to personal support of term limits, as did Commissioner Sachs. Commissioners Hartman and McGuirk spoke against including term limits. The Mayor had to decide the issue as the four zone commissioners were split 2-2 on the issue. The Mayor decided against including language on term limits in the proposed Charter, as the issue had been discussed and agreed to by the 11-person Charter Review Committee.

Commissioner McGuirk wished to discuss (and disagreed with the changes made in) section 3.05, as written by the Charter Review Committee. The current Charter allows a candidate getting 50% +1 votes in a primary election to be declared the winner of the seat. The proposed Charter requires the top two candidates in a primary election to be included on the general election ballot. With the zone commissioners split, the Mayor, again, had to make the decision to leave the language suggested by the Charter Review Advisory Committee for section 3.05.

Commissioner Hartman asked that there be minimum qualifications for employment included in section 4.04 for the City Clerk to be consistent with the content found in sections 4.02 and 4.03 addressing the other two Charter Officers. All agreed. Commissioner Hartman will work with the City Attorney on proposed language.

Commissioner Kolody complimented the City Attorney on the work she had done on Article 6 – Sustainability.

The Commissioners moved to discussion on whether to include single or multiple questions regarding adoption of the proposed City Charter on the November 3 ballot. An initial poll showed Commissioner Sachs in favor of multiple questions and the other Commissioners and mayor in favor of a single question. Questions are limited to 75 words each. The proposed Charter is very different in design and content from the City's current Charter. Commissioner Sachs was concerned that the public be aware of the major differences prior to casting a YES/NO vote on a single ballot question. The Commissioners committed to a robust educational campaign to educate the electors prior to the November 3 ballot.

Commissioner McGuirk brought up the number of people who attended the June 9 regular meeting of the Commission at City Hall. He suggested that, until social distancing recommendations are lifted, all future meetings be held at the Brannon Center where proper social distancing can be assured. All of his fellow Commissioners agreed. The Mayor asked city staff about live streaming capabilities from the Brannon Center, the availability of the Center and the need for more comfortable chairs for the Commissioners. All of the mayor's issues will be researched and addressed and the public will be well notified of the venue change.

[Current City Charter \(2014\)](#)

[Read the proposed City Charter, as recommended by the Charter Review Advisory Committee](#)