

City of Lake Alfred
120 E. Pomelo Street
Lake Alfred, Florida 33850



Phone: (863) 291-5270
Fax: 863) 298-5403
Visit: My Lake Alfred.com

**AGENDA
LAKE ALFRED CHARTER REVIEW COMMITTEE
TUESDAY, SEPTEMBER 22, 2020
6:00 PM
CITY HALL**

Call to Order:

Roll Call: City Clerk Ameen Bailey

Recognition of Citizens: Items that are not on the agenda

Agenda:

- 1.) Charter Review Committee Minutes – August 27, 2020
- 2.) Presentation: Staff identified charter review items
- 3.) Discussion: Committee Items identified for further review

Adjourn

Should any person decide to appeal any decision made at a meeting, or any meeting announced in this agenda, such person will need a record of the proceedings and may need to ensure that a verbatim record of the proceedings is made in accordance with the American with Disabilities Act, persons with disabilities needing special accommodations to participate in this proceeding should contact the City Clerk not later than four days prior to the proceeding at 863- 291-5748.

AGENDA

1.) Charter Review Meeting Minutes August 27, 2020

Issue: The Charter Review Committee will consider

Attachments:

- Draft Minutes

Analysis: Please review the minutes from the last meeting

Staff Recommendation: Approve Meeting Minutes.

**MINUTES
LAKE ALFRED CHARTER
REVIEW COMMITTEE
AUGUST 27, 2020
CITY HALL**

Assistant City Attorney W.A. "Drew" Crawford called the meeting to order at 2:00 pm.

Roll Call: City Clerk Ameen Bailey

Members in attendance: Member Brenda Arnold, Member Herb Nigg, Member Ron Schelfo, and Member Loretta Vittorio. Member John Duncan was absent.

Staff in attendance: City Manager Ryan Leavengood, Assistant City Attorney Drew Crawford, and City Clerk Director Ameen Bailey.

Assistant City Attorney Crawford provided an introduction and reviewed the agenda.

City Manager Leavengood stated he will serve as the kick-off and the future meeting dates and times will be determined at the end of the meeting by the members.

Agenda:

1.) Nominate and Appoint a Chairperson and Vice-Chairperson

Assistant City Attorney Crawford stated that he called the meeting to order as the temporary chair. The first action item of the committee is to nominate a chair and vice chair. He asked for nominations for the chairperson.

Member Schelfo nominated Herb Nigg as the chairperson. Member Nigg accepted the nominations. No other nominations were presented.

Member Nigg made a motion to close the nominations for chairperson; seconded by **Member Vittorio**. The motion passed unanimously by voice vote. As there were no other nominations for chairperson, Member Nigg was appointed.

Member Nigg asked for nominations for the vice-chair.

Member Nigg nominated Brenda Arnold as the vice-chair. Member Arnold accepted the nominations. No other nominations were presented.

Member Nigg made a motion to close the nominations for chairperson; seconded by **Member Vittorio**. The motion passed unanimously by voice vote. As there were no other nominations for chairperson, Member Arnold was appointed.

2.) Discussion of the City of Lake Alfred's Charter Review Committee Duties and Responsibilities.

Assistant City Attorney Crawford stated the Charter Review Committee meets every ten years to review how the charter is work. The committee will make recommendations to the City Commission regarding any possible updates. The Committee should review the charter based on what is best for the citizens of the City.

Chair Nigg asked how the recommendations would be presented.

Assistant City Attorney Crawford stated the recommendations would be presented and reported to the City Commission based on the Committees choice. Every city reports the recommendations differently and he provided several examples. Staff will assist with the report preparations based on the committee's guidance.

3.) Overview of Florida Sunshine Law, Municipal History, and City Charter

Assistant City Attorney Crawford provided an overview on the purpose of the legal discussion and how it relates to the boards duties. He reviewed Sunshine Law, Public Records Responsibilities, Ethics for Public Officials, Basic Charter Concepts, and and overview of the Lake Alfred Charter.

In review of the Sunshine Law, the law provides right of access to government proceedings of public boards or commissions and to applicable appointed and elected boards. The basic requirements are that the meeting must be open to the public; there must be note and minutes taken. He provided a few examples of what would be a meeting and what would not. The Board members should not discuss anything related to the City Charter review outside of the Charter Review Committee meetings.

Public records were reviewed next. Anything that perpetuates, communicates, or formalizes knowledge is considered a public record. Any shared items (documents, papers, maps, recordings, photos, emails, etc.) would be considered a public record. The public may access all materials made or received in the transaction of official business of the committee. The committee was encouraged to ask staff if they had any questions or concerns regarding public records. The City will be responsible for maintaining public reports for the committee. Any items coming from or to staff will be maintained and the committee members may forward any correspondence to staff to be maintained for purposes of public record.

Chair Nigg requested that the staff and committee contacts information be provided to the committee.

Member Arnold asked about social media.

Assistant City Attorney Crawford responded that if the members broadcasted their role on the committee and asked for feedback on social media those records would need to be maintained. He encouraged the members to let the City use social media for any committee discussion since the City already achieves the City's social media sites.

The two types of ethics provisions include prohibiting certain actions or conduct and requiring certain disclosures be made to the public. The prohibitions are the solicitation or acceptance of gifts or compensation that would influence the committee member.

Member Arnold asked about social media.

Member Arnold asked about clarification of gifts. **Assistant City Attorney Crawford** provided several examples.

Members are prohibited from the misuse of their position and the disclosure of information for personal gain. The members may not have business with the City or conflicting appointments. While these last two may not apply to the committee since they will not make the final decision, this is part of the ethical provisions. There also penalties to the ethics laws.

Chair Nigg asked for examples of voting for personal gain.

City Manager Leavengood and Assistant City Attorney Crawford provided examples regarding land uses changes and discloses why the member is sustaining from the vote. However, there is a difference between a private gain and a public gain and several examples were provided.

Chair Nigg asked if members could discuss legal or ethical issues with the staff and if Sunshine laws would apply. He recommended that items discussed with the staff should be presented to the committee.

Assistant City Attorney Crawford stated that the members may discuss items with staff. Although staff cannot act as a conduit between members. The role of the attorney is to provide advice.

City Manager Leavengood stated all members would receive the same information from staff. Member questions may lead to additional information being provided to the committee.

Assistant City Attorney Crawford provided the roles of laws and charters. He provided some of the basic items included in charters. He then discussed a history of the Florida Constitution and the impact on the municipal charters. Home Rule amendments occurred in 1956 and the Florida Constitution allowed for Citizen Charter after 1973. Citizen charters are created by the citizens and must be updated by the citizens. Municipal charters may be very different based on when they were created and if it has been updated.

Lake Alfred's Charter was updated as a Citizen Charter to incorporate home rule and then acts to prohibit rather than to permit government roles. Ordinance 562 was adopted in 1979, which makes the Lake Alfred's charter the oldest citizen charter in Polk County. The Charter has been amended seventeen times. The last amendment was in 2015. The City was founded in 1913.

City Manager Leavengood stated the next meeting will include staff presentation of the charter provisions and issues that have been identified by staff. Some issues, while additional work for staff, may not be worth the perception of a charter change. The charter is for general guidance and should not be so specific as to regulate the day-to-day operations of the City.

Assistant City Attorney Crawford and City Manager Leavengood provided several examples.

Assistant City Attorney Crawford reviewed the Lake Alfred Charter outline and suggested the committee focus on Articles 2-4. He also suggested not changing from home-rule.

- Art. 1: Creates the City; Authorizes Plenary Home Rule
- Art. 2: Creates a Commission-Manager Government; Provides Restrictions on Finance and Budget
- Art. 3: Creates Administrative Offices
- Art. 4: Specifies How Elections are Conducted
- Art. 5/Art. 6: General Provisions

Member Schelfo stated the committee does not need to make unnecessary changes.

City Manager Leavengood played a video explaining the role of City Managers, the Council/Mayor form of government, and the division of powers. The City was also one of the first cities to adopt the Council/Manager form of government. The different forms of government was reviewed.

There is some items in the Charter that are further explained in the Code of Ordinances. The Code of Ordinances can be changed by the City Commission. The City Commission and Citizens petitions can also be used to make changes to the Charter. The Charter Review Committee is a formalized process to ensure the Charter is reviewed periodically.

4.) Questions and Comments from the Lake Alfred Charter Review Committee

Member Vittoria asked when the last charter review was conducted. **Assistant City Attorney Crawford** confirmed that it was ten years ago and he served as the committee attorney for that committee in 2010.

City Clerk Bailey stated the last charter amendment was in 2015 regarding ties of elected commissioners.

Chair Nigg asked if the City Manager has the authority to hire/fire the Police Chief.

City Manager Leavengood stated that in a Council/Manager form of government runs like a business and the City Manager “manages” all staff. Every municipality in Polk County has a Council/Mayor form of government.

Member Arnold ask if the members should/could talk to other municipalities or citizens regarding charter.

Assistant City Attorney Crawford stated he expected some members may want to research on their own which is why staff provided the information and history of charters to the committee. He asked the committee to read the Lake Alfred Charter.

Chair Nigg request the committee discuss the schedule.

City Manager Leavengood provided some dates in relation to other City meetings and suggested some dates.

Assistant City Attorney Crawford stated the next meeting would be the staff presentation. Staff would get feedback on the topics the committee was interested in further information. They the City would present on the specific information.

He reviewed the timeline for the committee. The election will be held in April and ballots must be prepared by the first of February. In order for the City Commission must have the amendments in final form by January. The amendments must be presented to the City Commission by the first of December. November the City Commission would review the committee report, therefore the report should be finalized by the end of October. Typically charter review committees meets 5-7 times.

The committee discussed several dates and times and landed on September 3 and September 22 at 6:00 pm.

With no other business, **Chair Nigg** adjourned the meeting at 3:49 pm.

Respectfully Submitted,

Ameé Bailey
City Clerk

2.) Presentation: Staff identified Charter Review Items

ISSUE: The Committee will be presented with staff identified charter items to review.

ATTACHMENTS:

- Proposed Revisions

ANALYSIS: City Staff in conjunction with the City Attorney have identified several items within the Charter that could be cleaned up, improved, or clarified.

In all, five provisions have been identified by staff including:

1. Extraordinary Vacancies
2. Validity of Conflicts of Interest
3. Triggering requirements for Ordinances & Resolution
4. Registration of Electors
5. Qualifying for Individual Commission Seats

Of the items listed 1, 2, and 4 are ministerial in nature. The change to 3 is designed to reduce administrative/procedural burdens and number 5 is designed to help delineate and remove confusion in municipal elections.

STAFF RECOMMENDATION: Committee to review the staff proposed changes and to provide feedback.

**Lake Alfred Charter Review Committee
September 22, 2020**

Legal and Staff Suggestions for Improvement

Item 1: Extraordinary Vacancies

Brief Analysis:

Section 2.07 of the Lake Alfred Charter authorizes the Governor of Florida to appoint an “interim commission” in the event of a catastrophic loss of all members of the elected city commission.

According to the Charter, the interim commission is required to hold a special election between 60 and 90 days from the date of the catastrophe for citizens of the City to elect new commissioners. Florida law provides two requirements that may conflict with the Charter’s special election timeline:

First, the *Florida Elections Code* requires “at least 30 days’ notice of [a special] election” to be published “in a newspaper of general circulation in the” City, “once in the fifth week and once in the third week prior to the week in which the election” is held or, if “there is no newspaper” available, to be “posted in no less than five places” in the municipal limits. § 100.342, Fla. Stat. (2019).

Second, the *Florida Elections Code* states that “the governing authority of a municipality shall not call any special election until notice is given to the supervisor of elections and his or her consent obtained as to a date when the registration books can be available.”

In the event of a catastrophic loss, it may be difficult to obtain the consent of the Supervisor of Elections to hold a city special election between 60 and 90 days from the date of the catastrophe, especially if there is an upcoming primary or general statewide election within the same timeframe. It is recommended that the Charter Review Committee consider expanding the special election timeline to at least 180 days, which should provide a larger window for the interim commission and supervisor to pick an appropriate municipal election date.

* * * * *

Suggested Text of Amendment:

Section 2.07. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of a commissioner shall become vacant upon their death, resignation, removal from office in any manner authorized by law or forfeiture of their office, such forfeiture to be declared by the remaining members of the commission.
- (b) *Forfeiture of office.* A commissioner shall forfeit their office if that commissioner:
- (1) Lacks, at any time during their term of office, any qualification for the office prescribed by this Charter or by law; or
 - (2) Violates any standard of conduct or code of ethics established by law for public officials, such violation to be determined by remaining members of the commission.

A member charged with conduct constituting grounds for forfeiture of his or her office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

- (c) *Filling of vacancies.* In the event the office of a city commissioner becomes vacant for any cause, the remaining members of the commission, by their majority vote, shall fill the vacancy by the appointment of any qualified person to the office to fill out the vacancy until the next regular city election or, provided there is no regular city election scheduled within the next twelve (12) months, until the following April at which time a special election shall be held to fill the office.
- (d) *Extraordinary vacancies.* In the event that all members of the commission are removed by death, disability, or forfeiture of office, the governor shall appoint an interim commission that shall call a special election to be held ~~not sooner than sixty (60) days, nor more than ninety (90)~~ within one hundred eighty (180) days following the occurrence of the vacancy. In the event that a primary election is necessary, it shall be scheduled two (2) weeks prior to the special election. At such special election, all five (5) commissioners shall be elected; the two (2) candidates receiving the greatest number of votes shall serve for terms of four (4) years; the two (2) candidates receiving the next highest number of votes shall serve for three (3) years; and the candidate receiving the next highest number of votes shall serve for a term of two (2) years. Thereafter, all elections shall be for terms of four (4) years, to succeed the commissioners whose terms expire immediately following said election.

- (e) *Absences.* Absences from four (4) consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the facts of such excuse duly entered upon the journal.

**Lake Alfred Charter Review Committee
September 22, 2020**

Legal and Staff Suggestions for Improvement

Item 2: Validity of Conflicts of Interest

Brief Analysis:

Section 2.08 of the Lake Alfred Charter authorizes the remaining members of the city commission to determine the validity of an asserted “conflict of interest” by a commissioner. If the remaining members find the assertion of conflict invalid, the charter states that “the member shall be required to vote.”

Florida law states that a “member” of a “municipal governmental board” who “is present at a meeting” where “an official decision, ruling or other official act is to be taken or adopted may not abstain from voting in regard any such decision, ruling or act” unless “with respect to any such member, there is, or appears to be, a possible conflict of interest” under Chapter 112 of the Florida Statutes. *See* § 286.012, Fla. Stat. (2019). “Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer’s interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.” § 112.3143(3)(a), Fla. Stat. (2019).

Alternatively, if “the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if abstention is to assure a fair proceeding free from potential bias or prejudice.” § 286.012, Fla. Stat. (2019).

State law does not appear to permit the remaining members of a municipal governing board, such as Lake Alfred City Commission, to evaluate and override an individual commissioner’s personal determination regarding whether a conflict of interest exists. For this reason, it is recommended that the Charter Review Committee consider deleting the “Validity of such conflict” statement from the city charter.

* * * * *

Suggested Text of Amendment:

Section 2.08. - Procedure.

- (a) *Meetings.* The commission shall meet regularly at least once in every month, at such times and places as the commission may prescribe by rule. Special meetings may be held on the call of the mayor, or of a majority of the members and, whenever practicable, upon no less than forty-eight (48) hours notice to each member and the public. All meetings shall be public.
- (b) *Rules and journal.* The commission shall determine its own rules of order and shall adopt said rules by resolution. Said rules, and amendments by resolution to said rules, shall be made available to the public. The city manager shall compile the agenda for each commission meeting. The mayor shall set the order of business for each meeting. The agenda shall be made available to the public not less than five (5) days prior to each regular meeting and not less than forty-eight (48) hours, whenever practicable, prior to each special meeting.
- (c) *Voting.* Voting, on ordinances and resolutions, may be by either roll call or voice vote at the preference of the presiding officer and shall be recorded in the journal, provided that any commissioner may order that votes be cast on an ordinance or resolution by roll call by requesting the same of the presiding officer. A majority of the commission shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the commission. Each member of the commission present shall be required to vote on each matter coming before the commission for vote, except that a member may abstain only in the event of conflict of interest, in which case the circumstances of such conflict shall be stated and entered upon the journal. ~~Validity of such conflict shall be subject to determination by the remaining members of the commission, and if said members find the statement of conflict invalid, the member shall be required to vote.~~ No action of the commission, except as otherwise provided in the preceding sentence and in section 2.07, shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

**Lake Alfred Charter Review Committee
September 22, 2020**

Legal and Staff Suggestions for Improvement

Item 3: Ordinances and resolutions

Brief Analysis:

State law permits Florida municipal governments to take formal action by ordinance, which is a general and permanent law, or by resolution, which is a formal expression concerning matters of administration or provision for the disposition of a particular item of municipal business. *See* § 166.041, Fla. Stat. (2019).

Since October 1, 2013, the City of Lake Alfred has been required by an act of the Florida Legislature to give members of the public a “reasonable opportunity to be heard on a proposition before a board or commission” of the city, which includes ordinances, resolutions and some motions scheduled for adoption by the city commission. *See* § 286.0114(2), Fla. Stat. (2019) (“SB 50”). These “reasonable opportunit[ies]” often take the form of “public hearings.”

This proposed amendment would introduce the definition of resolution into the city charter. It would also permit a series of specific acts designated by the people of Lake Alfred to be adopted by either a formal ordinance or formal resolution. In instances where the city commission desires to amend or repeal an ordinance, this amendment would require the city commission to adopt a second ordinance and, if amending, state the act to be amended in full. Similarly, in instances where the city commission desires to amend or repeal a resolution, this amendment would permit the city commission the ability to adopt a second resolution or instead adopt an ordinance.

Ordinance adoption can be cumbersome and lengthy, often requiring between three weeks and one month before municipal action is finalized. Given the increasing amount of business coming before the city commission, and the express grant by the state legislature for cities to dispose of administrative matters by resolution, it is recommended that the Charter Review Committee consider modifying Section 2.09 of the city charter to harmonize it with state law and expand the use of resolutions for formal decisions and determinations.

Note, it is: (a) also recommended that the Charter Review Committee propose deletion of what appears to be an obsolete or non-existent reference to the repeal of ordinances by referendum; and (b) also recommended to modify the “ordinance” requirement for Personnel Rules in Section 3.06.

Suggested Text of Amendment:

Section 2.09. - Ordinances and resolutions in general.

"Ordinance" means an official, legislative action of the commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

"Resolution" means an expression of the commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the city.

- (a) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a section or subsection.
- (b) *Procedure for ordinance adoption.* A proposed ordinance, other than an emergency ordinance, shall be read by title, or in full, on at least two (2) separate days, at either regular or special meetings of the commission, and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice or proposed enactment shall state the date, time and place of the meeting; the title or titles of proposed ordinances, and the place or places within the city where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (c) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective ten (10) days after adoption or as otherwise specified therein.
- (d) *Action requiring ~~an~~ a formal ordinance or resolution.* In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance or resolution, those acts of the city commission shall be by ordinance or resolution which:
 - (1) Adopt or amend an administrative code or establish, alter or abolish any city department or agency;
 - (2) Establish a rule or regulation, the violation of which carries a penalty;
 - (3) Levy taxes authorized by general law;

- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or granting administrative authority for such charges;
- (6) Authorize the borrowing of money not inconsistent with the limitations in the constitution and general law of the state; or
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the city.;

~~(8)~~

(e) Amendment or repeal. The commission must adopt an ordinance to amend Amend or repeal any ordinance previously adopted and may adopt an ordinance or resolution to amend or repeal any resolution previously adopted, except as otherwise provided in article V, with respect to repeal of ordinances reconsidered under the referendum power.

Section 3.06. - Personnel system.

- (a) *Merit principle.* All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- (b) *Personnel rules.* The city manager or his or her designee shall prepare personnel rules. The rules shall be proposed to the commission, and the commission shall by ordinance or resolution adopt them with or without amendment. These rules shall provide for:
 - (1) The classification of all city positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
 - (2) A pay plan for all city positions;
 - (3) Methods for determining the merit and fitness of candidates for appointment or promotion;
 - (4) The policies and procedures regulating reduction in force and removal of employees;

- (5) The hours of work, attendance regulations and provisions for sick and vacation leave;
- (6) The policies and procedures governing persons holding provisional appointments;
- (7) The policies and procedures governing relationships with employee organizations;
- (8) Policies regarding in-service training programs;
- (9) Grievance procedures, including procedures for the hearing of grievances;
- (10) Other practices and procedures necessary to the administration of the city personnel system.

**Lake Alfred Charter Review Committee
September 22, 2020**

Discussion Items

Item 4: Registration of Electors

Brief Analysis:

Section 4.01 of the Lake Alfred Charter states that “Any person who is a resident of the city, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and ordinance of the city, shall be an elector of the city.” This language is copied directly from the 1973 *Municipal Home Rule Powers Act*. See § 166.032, Fla. Stat. (2019).

The *Florida Elections Code* creates a “permanent single registration system for the registration of electors to qualify them to vote in all elections is provided for the several counties and municipalities.” § 97.105, Fla. Stat. (2019). “This system shall be put into use by all municipalities and shall be in lieu of any other system of municipal registration.” *Id.* “Electors shall be registered pursuant to this system by a voter registration official, and electors registered shall not thereafter be required to register or reregister except as provided by law.” *Id.*

Because the charter’s language copies the text of a state statute, there is no recommendation for modification. This analysis is included for the Charter Review Committee as an information item only.

Text of Charter Section:

Section 4.01. - Electors.

Any person who is a resident of the city, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and ordinance of the city, shall be an elector of the city.

**Lake Alfred Charter Review Committee
September 22, 2020**

Discussion Items

Item 5: Qualifying for Individual Commission Seats

Brief Analysis:

Section 4.04 of the Lake Alfred Charter directs each local voter to “vote for as many candidates as there are places to be filled” during municipal elections. As such, in a scenario where there are three (3) open seats on the city commission, and seven (7) people identified as qualified on the ballot, each Lake Alfred voter votes for three (3) of the seven (7) individuals. § 4.05(b), *Charter of the City of Lake Alfred*.

Continuing with the scenario, the three individuals gaining the most votes of the total number of votes cast are deemed elected by plurality. § 4.05(c), *Charter of the City of Lake Alfred*.

Under the current system, if multiple seats for Commission are up for election everyone that qualifies is listed on a single list and voters select two from the list of candidates (or however many seats are open). In past elections, staff has seen a trend of ballots where only one candidate was selected when they were able to select two. While it is possible that the voter only wanted to select one candidate a more likely explanation is that voters may be confused because in no other race would you be able to bubble in multiple selections from a single list of candidates.

Staff and the City Attorney’s Office have no specific recommendation on this item but wanted to bring it to the Committee’s attention and have generated a proposed set of changes for review by the Charter Review Committee that would have candidates qualify for individual seats on the commission when running for office.

Text of Charter Sections and Amendments:

Section 4.03. - Nominations for city commission.

- (a) Candidates for election to the city commission may be nominated by petition. Any qualified elector of the city may be nominated for election by a petition signed by not less than one (1) per cent of the number of qualified electors of the city as of the day before the first day for qualifying. Candidates for election who fulfill the petition requirements under Florida Statute 99.0955 are excluded from paying a qualifying fee, otherwise a qualifying fee will be charged as prescribed by State Election Laws. Each elector may subscribe to one nominating petition for each of the places to be filled, and no more. The form of nominating petitions and procedures for proper execution thereof shall be determined by the city clerk and

published in the clerk's office not less than ninety (90) days before the first day for qualifying.

- (b) All separate papers comprising a nominating petition shall be assembled and filed with the city clerk as one instrument not earlier than fifty (50) days or later than forty-six (46) days before the election. The city clerk shall make record of the exact time and date when each petition is filed.
- (c) After the filing of the nominating petition the City Clerk shall notify the candidate no later than the forty-third (43) day prior to the election whether or not it satisfies the requirements prescribed by this charter.
- (d) Any person whose name has been submitted for candidacy by such petition shall file with the city clerk, not earlier than fifty (50) days or later than forty-six (46) days before the election, a signed acceptance of such candidacy. The acceptance shall state that, if elected, he or she will qualify and serve in such office during the term for which he or she is elected. The city clerk shall note thereon the exact time and date of its filing. If any candidate shall fail to file such signed acceptance, the candidate's name shall not appear upon the ballot.
- (e) Procedure for election by write-in vote. Any person seeking election to the city commission by write-in vote, in order to be entitled to have write-in votes cast for him or her counted, shall have not less than forty-six (46) days prior to the general election, certified under oath to the city clerk, the following information:
 - (1) Name.
 - (2) Address.
 - (3) That he or she possesses all of the qualifications required by law for the office of city commission.
 - (4) The name of the office he or she seeks.
 - (5) That he or she will accept the office if elected.

At the time of certifying under oath the above information, a write-in candidate shall be considered a candidate as so defined in this Charter, except that he or she shall not be entitled to have his or her name printed on the official ballot.

- (f) Candidates for city commission to designate race for individual seat at time of qualification. No later than forty-six (46) days prior to the general election, each candidate for city commission shall file with the city clerk a form designating which commission seat the candidate desires to run for. The city clerk shall note

thereon the exact time and date of its filing. If any candidate shall fail to file such form designating which seat the candidate desires to run for, the candidate's name shall not appear upon the ballot.

Section 4.04. - Form of ballots.

- (a) *City commission.* The full names of all candidates nominated for membership in the city commission except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol and sorted by seat number into separate races. If two (2) or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot. All names shall be printed in alphabetical order. The ballot shall contain instruction to the voter, the wording of which shall be established by ordinance of the commission, directing the voter to vote for as many candidates as there are places to be filled.
- (b) *Charter amendment or other measure.* A Charter amendment or other measure to be voted on by the electors of the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below shall appear in the following order, the word "for" and also the word "against" with a sufficient blank space thereafter for the placing of the symbol "X" to indicate the voter's choice or with a level opposite "for" or "against" if voting machines are used.

Section 4.05. - Elections.

- (a) *When held; transition schedule to four-year terms.* Regular city election shall be held on the first Tuesday in April of each year. Upon approval of this provision by the voters of the city in the 2009 city election, candidates for commissioner elected to seats 3 and 4 under the previous version of section 4.05(a) of this Charter shall fill seats 3 and 4 for a four-year term to expire in 2013. At the 2010 city election, seat 5 shall be filled for a four-year term to expire in 2014. At the 2011 city election, seats 1 and 2 shall be filled for a four-year term to expire in 2015. Subsequently, seats shall become vacant at four-year intervals. Commissioners occupying office at the time of approval of this provision by the voters of the city shall be entitled to continue in office until seats become vacant in accordance with this section.
- (b) *Number of votes.* Every voter shall be entitled to vote for as many candidates one candidate in each race for an open seat on the city commission ~~as there are seats to be filled~~. Unless otherwise qualified as provided in this Charter, votes cast for a write-in candidate shall not be counted. Should a qualified candidate run for an

~~open seat without opposition the number of qualified candidates for the city commission at any election equal the number of seats to be filled at such election, such candidate or candidates shall be declared elected by a majority vote of the city commission.~~

- (c) *Plurality.* Candidates for commissioner receiving a plurality of the votes cast in each race shall be declared elected ~~until the number declared elected equals the number of commission places to be filled at the election.~~ A candidate who receives a plurality of the votes cast is the candidate who receives the greatest number of votes. ~~The terms for each commission place being filled at each election shall be filled such that the candidate receiving the largest number of votes regardless of whether the candidate was running for election based on an appointment arising as a result of a vacancy in office shall fill the longest term open for that election and so on until all commission places are filled. Provided further if there is no opposition for a particular commission place seat then the candidate who runs unopposed shall remain in the same commission place seat.~~ All ties shall be decided by a drawing of lots in accordance with procedures established by Ordinance of the City Commission between the candidates who receive the same number of votes to determine which candidate is elected and the drawing of lots shall be under the direction of the election authorities.
- (d) *[Assuming office.]* All commissioners and officers elected under this charter shall assume their offices on the first regular commission meeting in May following the election at which they shall be chosen.

3.) Discussion: Committee Items identified for further review

ISSUE: The Committee will discuss provisions or subjects they would like to further study or review.

ATTACHMENTS:

- None

ANALYSIS: In addition to feedback provided for the staff identified provisions the Charter Review Committee may wish to identify provisions within the charter or subjects in general that they would like to further review.

City Staff and the City Attorney can provide research, background information, and recommendations to the Committee to assist in vetting different provisions or subjects the Committee is interested in.

An analysis by staff will be drafted on the items identified by the Committee, if any, and be presented at the next meeting. The format will be similar to the staff items presented at this meeting. This will aid the Committee in making an informed decision regarding any recommendations you send to the City Commission.

STAFF RECOMMENDATION: Committee's Discretion.