

**City of Palm Bay, Florida**

**CHARTER REVIEW COMMISSION  
Meeting No. 2012-03**

Held on Monday, the 27<sup>th</sup> day of February 2012, at the Palm Bay City Hall Council Chambers, 120 Malabar Road, Palm Bay, Florida.

The meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, 120 Malabar Road, SE, Palm Bay, Florida.

The meeting was called to order by Chairman Rettinger at 6:35 P.M.

**ROLL CALL:**

<b>CHAIRMAN:</b>	William Rettinger	Present
<b>VICE CHAIR:</b>	Tres Holton	Present
<b>MEMBER:</b>	Mary Ellen Pryor	Present
<b>MEMBER:</b>	Christopher Robinson	Present
<b>MEMBER:</b>	Vicki Northrup	Present
<b>MEMBER:</b>	Mary Greene	Present
<b>MEMBER:</b>	Raymond Myers	Present
<b>MEMBER:</b>	Frances Speegle	Present
<b>MEMBER:</b>	Harry Santiago	Present
<b>MEMBER:</b>	Missy Wilson	Present

**ALSO PRESENT:**

Alice Passmore, City Clerk; Andrew Lannon, City Attorney; Nick Tsamoutales, City Attorney Emeritus.

**ADOPTION OF MINUTES:**

**1. Meeting No. 2012-02; February 13, 2012.**

Motion by Ms. Pryor, seconded by Ms. Northrup to approve the minutes of Meeting No. 2012-02 with the following corrections: Page 2, Unfinished Business, Item No. 1, Paragraphs 6 and 7, the words "Rule 18" should read "Rules 16 and 17". Motion carried unanimously.

**PUBLIC COMMENTS:**

Chairman Rettinger asked the Commission to revise the agenda to consider Public Comments later in the meeting. The Commission concurred.

**REPORTS:**

**1. Chairperson.** Chairman Rettinger stated he had provided an oral report to the City Council.

**2. City staff.** The City Clerk addressed a couple of items. The Commission concurred that proposed revisions presented by members were to be sent to the City Clerk for distribution. A member asked that the proposed revisions be distributed prior to the meeting, if possible, in order to allow time for the members to review them before the meeting.

**3. Commission members.** There were no reports.

### **NEW BUSINESS:**

#### **1. Review and discussion of the City Charter - Article III, Legislative.**

The Commission concurred to allow the public to speak after the presentation of the revisions by the members submitting same. A resident addressed several of the proposals at the respective time.

Mr. Santiago reviewed revisions he was proposing to the article. The first revision was to include as Section 3.13 a provision empowering the City Council to conduct independent audits of city departments. The second revision was to change Section 3.01 from the council-manager form of government to the strong mayor-council form. He reviewed his proposal for the strong mayor form of government. The proposal eliminated the position of city manager which would affect a number of other sections in the Charter. There was a brief discussion on same.

Members agreed that a proposed revision affecting any other section(s) in the Charter should also include the affected section(s) to make the members aware of same.

Members discussed Mr. Santiago's proposal to include a provision for independent audits. Mr. Tsamoutales advised the members that Council could currently conduct such audits at any time.

Chairman Rettinger reviewed revisions he was proposing to Section 3.01. He proposed increasing the number of councilmembers from five (5) to seven (7) and creating single member districts. He proposed four (4) districts from which a councilmember would be elected from each, and the mayor and three (3) other councilmembers would be elected at-large.

Members discussed the proposals. Concern was expressed by several members in regards to increasing the number of members on Council. A hybrid of the districting proposal was suggested by Mr. Holton who addressed the City of Melbourne's elections. Melbourne had districts in which the elected individuals had to live, but the members were elected at-large. The mayor's seat was elected at-large. There was further discussion on same.

A brief recess was taken after which time the meeting resumed with all members present.

Mr. Holton reviewed his proposed revision to Section 3.03, Compensation. He addressed the salaries of other comparable size cities. The language he proposed was based on the language in the City of Melbourne's City Charter. There was discussion among the members regarding the proposal.

Mr. Holton reviewed his proposed revision to Section 3.04, Mayor and Deputy Mayor. He disclosed a situation that happened to him in 2003 when he was the deputy mayor on Council. The then-mayor resigned to run for another office; Mr. Holton resigned to run for the mayor's seat. He stated the Council questioned whether he should be acting mayor since he was running for the seat of mayor. His position as deputy mayor was replaced by another councilmember who filled in as acting mayor. He reviewed an Attorney General's Opinion pertaining to the position of deputy mayor. He did not want the incident to happen again and proposed a revision to the section. He mentioned the Charter didn't define how a vacancy in the position of deputy mayor would be handled either. He was also proposing to delete the run-off election for a tie vote and replace the election with drawing lots to determine the winner. Mr. Holton felt the matter would be corrected with the revised language and the Attorney General's Opinion (AGO). The City Attorney stated the AGO was just an opinion and to the extent that it had any judicial power, a court could accept or reject it. He stated the language in the Charter indicated it was an election versus an appointment.

The Commission continued with Section 3.05, Prohibitions.

**Subsection 3.051, Appointment and removals.**

There were no recommended changes to the subsection.

**Subsection 3.052, Interference with administration.**

There were no recommended changes to the subsection.

**Subsection 3.053, Holding other office.**

There were no recommended changes to the subsection.

**Subsection 3.054, Conflict of interest.**

There were no recommended changes to the subsection.

**Section 3.06. Vacancies.**

The City Clerk stated the sentence was not properly structured and recommended a revision to the section to grammatically correct it.

**Subsection 3.061, Forfeiture of office.**

There were no recommended changes to the subsection.

**Subsection 3.062, Filling of vacancies.**

The City Clerk explained that the subsection was a mish mash of provisions; four provisions rolled into one. She said that one of the provisions dealing with the quorum of Council could be relocated to subsection 3.064 that dealt with extraordinary vacancies. The City Attorney had written new language in 2001-2002 pertaining to the temporary and permanent vacancies in the office of Mayor and Council. The City Clerk informed the Commission that if it leaned towards the Attorney's rewrite, the Florida Statutes allowed provisions for vacancies to be adopted by ordinance. The Charter provision could reference that the vacancies would be filled pursuant to ordinance and the proposed language adopted by ordinance.

The City Attorney reviewed the language he had prepared for the subsection.

**Subsection 3.063, Absenteeism.**

The subsection had been revised to include language to cover the time allowed for a member to be absent due to illness or disability which was expounded upon in the language prepared by the City Attorney for subsection 3.062. The City Clerk said the language would need to be included if the Commission accepted the City Attorney's rewrite of the subsection.

**Section 3.07. City Clerk.**

There were no recommended revisions to section 3.07, subsection 3.071 and 3.072.

**Subsection 3.081, Meetings.**

There were no recommended changes to the subsection.

**Subsection 3.082, Rules and order.**

There were no recommended changes to the subsection.

**Subsection 3.083, Voting.**

There were no recommended changes to the subsection.

The Commission concurred to review sections 3.09, 3.10, 3.11, and 3.12 at the next meeting with Article V, Qualifications and Elections. An invitation would be extended to the supervisor of elections to attend the meeting.

The Commission considered the proposals presented by members and staff to the various sections and subsections of the Charter.

**Revisions presented by Mr. Santiago:**

Motion by Mr. Santiago, seconded by Mr. Holton, to move forward with the proposed revisions to sections 3.01 and 3.04, and the addition of section 3.13. Mr. Holton stated he was interested in the impact it would have on the community. Motion failed with members voting as follows:

Ms. Pryor	Nay
Mr. Robinson	Nay
Ms. Northrup	Nay
Mr. Holton	Yea
Mr. Myers	Nay
Ms. Speegle	Nay
Mr. Rettinger	Nay
Mr. Santiago	Yea
Ms. Wilson	Nay
Mrs. Greene	Nay

Revisions presented by Chairman Rettinger:

Motion by Mr. Myers, seconded by Ms. Northrup, to move forward for further discussion the proposed revisions to section 3.02, and ancillary revisions to subsection 5.042, section 5.06, subsection 5.062 (to be renumbered), and the addition of a new subsection 5.062. Mr. Holton stated he would be willing to consider a hybrid of the revisions. Mrs. Speegle stated she was not in favor of increasing the size of council. Motion approved with members voting as follows:

Ms. Pryor	Yea
Mr. Robinson	Yea
Ms. Northrup	Yea
Mr. Holton	Yea
Mr. Myers	Yea
Ms. Speegle	Nay
Mr. Rettinger	Yea
Mr. Santiago	Yea
Ms. Wilson	Nay
Mrs. Greene	Yea

Revisions presented by Mr. Holton:

Motion by Ms. Northrup, seconded by Ms. Pryor, to move forward for discussion the proposed revision to section 3.03. Motion carried unanimously.

Motion by Mrs. Greene, seconded by Mr. Myers, to move forward for discussion the proposed revisions to section 3.04, and ancillary revisions to subsections 5.041, 5.042, and 5.043. Motion carried unanimously.

Revisions presented by City Clerk/City Attorney:

Motion by Mrs. Speegle, seconded by Mrs. Greene, that the wording for the proposed change to subsection 3.062 be presented at the next meeting, with the language prepared by the City Attorney, with the proposal that subsection 3.062 be sent to Council for ordinance purposes. Motion carried unanimously.

Motion by Mrs. Greene, seconded by Mr. Robinson, to move forward with the proposed change to subsection 3.063. Motion carried unanimously.

**2. Announcement of the Commission's next meeting - Monday, March 12, 2012.**

Chairman Rettinger announced that the Commission's next meeting would be held on Monday, March 12, 2012, at 6:30 P.M.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:33 P.M.

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William Rettinger, Chairman

ATTEST:

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Alice Passmore, City Clerk