



## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Tuesday, February 22, 2022 - 6:00 PM**

**Council Chambers, 120 Malabar Road SE, Palm Bay, Florida 32907**

#### **CALL TO ORDER:**

#### **PLEDGE OF ALLEGIANCE:**

#### **ROLL CALL:**

#### **PRESENTATIONS:**

1. Peter Napoli, Stantec Consulting Services, Inc. - General Fund Sustainability Analysis.

#### **PUBLIC COMMENTS (Non-Agenda Items):**

*Public Comments on Agenda Items* - Individuals wishing to address items on the agenda can do so at the time the item is being considered by the Commission. The Chairperson will ask for public comment prior to the Commission taking action on the item. Speakers are limited to three (3) minutes for agenda and non-agenda items. each.

#### **ADOPTION OF MINUTES:**

1. Meeting 2022-03; February 8, 2022.

#### **REPORTS:**

1. Proposed amendments approved by the Commission. (INFORMATION ONLY)

#### **UNFINISHED AND OLD BUSINESS:**

1. Article III, Legislative – Section 3.06, Vacancies (Subsection 3.062, Filling of Vacancies). (Phil Moore)
2. Article III, Legislative – Section 3.03, Compensation. (CONTINUED TO NEXT MEETING)

#### **NEW BUSINESS:**

1. Review and discussion of the City Charter - Article VI, Taxes and Fees; Article VII, City Borrowing.

#### **ADJOURNMENT:**

**In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.**

**If you use assistive technology (such as a Braille reader, a screen reader, or TTY) and the format of any material on this website or documents contained therein interferes with your ability to access information, please contact us. To enable us to respond in a manner most**

helpful to you, please indicate the nature of your accessibility problem, the preferred format in which to receive the material, the web address of the requested material, and your contact information. Users who need accessibility assistance can also contact us by phone through the Federal Information Relay Service at 1-800-877-8339 for TTY/Voice communication.

Pursuant to Council Policies and Procedures, members of the public wishing to use electronic media when addressing City Council must provide the electronic file to staff for screening no later than 2:00 P.M. on the day of the meeting; audio presentations must be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting.

**THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE AND TELEVISED ON THE SPACE COAST GOVERNMENT TV CHANNEL.**



## **LEGISLATIVE MEMORANDUM**

**DATE:** 2/22/2022

**RE:** Meeting 2022-03; February 8, 2022.

**ATTACHMENTS:**

**Description**

**Minutes - Meeting 2022-03**

**City of Palm Bay, Florida**  
**CHARTER REVIEW COMMISSION**  
**Meeting 2022-03**

Held on Tuesday, the 8<sup>th</sup> day of February, 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 minutes are not a verbatim transcript, but a brief summary of the discussions and actions taken at the meeting.

The meeting was called to order by Chair Capote at 6:00 P.M.

Vice-Chair Weinberg led the Pledge of Allegiance to the Flag.

**ROLL CALL:**

<b>CHAIR:</b>	William Capote	Present
<b>VICE-CHAIR:</b>	Phil Weinberg	Present
<b>MEMBER:</b>	Ken Delgado	Present
<b>MEMBER:</b>	David Myers	Absent
<b>MEMBER:</b>	Jeffrey McLeod	Present
<b>MEMBER:</b>	Phil Moore	Present
<b>MEMBER:</b>	David Jones	Present
<b>MEMBER:</b>	Jordin Chandler	Present
<b>MEMBER:</b>	Aaron Parr	Absent
<b>MEMBER:</b>	Kay Maragh	Absent

**ALSO PRESENT:**

Patricia Smith, City Attorney; Terese Jones, City Clerk.

**ADOPTION OF MINUTES:**

**1. Meeting 2022-02; January 25, 2022.**

Motion by Mr. Delgado, seconded by Mr. Weinberg, to adopt the minutes as presented.  
Motion carried unanimously.

**PUBLIC COMMENTS:**

1. Ruth Kaufhold, resident, suggested the following language for Section 3.062, Filling of Vacancies – “A vacancy of the Council should be filled by special election, where the citizens of Palm Bay are to choose their representative on the City Council should it be vacated.”

**UNFINISHED AND OLD BUSINESS:**

**1. Article III, Legislative – Section 3.03, Compensation**

Staff requested a continuance of the item as research was still being done. Motion by Mr. Moore, seconded by Mr. Jones, to continue the item to the next meeting. Motion carried unanimously.

**2. Article III, Legislative – Section 3.05, Prohibitions  
(Subsection 3.053, Holding Other Office)**

Vice-Chair Weinberg proposed the following language:

- (a) No >>current or<< former elected city official, nor any relative of such former elected city official, shall hold any compensated appointive city office or employment until, at least, two (2) years after the expiration of the term for which elected. This provision shall not apply to relatives of any current or former elected city official holding a compensated appointive city office or position of employment prior to November 9, 2016.
- (b) For the purposes of this section, "relative" shall mean an individual who is related to the >>current or<< former elected city official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Ms. Smith advised that the date under subsection (a) would be revised accordingly should the amendment be passed by the voters.

Motion by Mr. Moore, seconded by Mr. McLeod, to approve the revised language as presented.

**3. Article III, Legislative – Section 3.06, Vacancies  
(Subsection 3.062, Filling of Vacancies)**

Mr. Moore proposed the following language:

“When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled ~~in accordance with the procedures prescribed by ordinance~~ >>by appointment of the majority of the remaining members. All vacancy elections will run concurrent with the regularly scheduled city elections. Appointments will be to serve the remainder of the term until the next regular election cycle. If there are less than six (6) months remaining in the unexpired term, the term will extend to the next regularly scheduled city election.<<”

Mr. Delgado did not agree with the proposed language and stated his reasons for same. He felt it would be better to keep the language as is and as the city had just come out of an investigation, such a change would not help the reputation of the city. Mr. Delgado said the cost of an election was not a valid excuse for denying voters the right to a special election. The cost of the upcoming special election was over \$253,000. Commission members commented that spending that amount of money was fiscally irresponsible. It was also stated numerous cities throughout Florida addressed vacancies in the same manner as the presented language. There was further discussion among the Commission.

Vice-Chair Weinberg said that the last sentence of the revised language was redundant. Mr. Moore clarified that if a member of City Council either resigned or passed away with less than six (6) months remaining in the term, the remaining members would appoint an individual to serve until the next regular city election which would be a little over two (2) years.

The language was revised as follows: “When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled ~~in accordance with the procedures prescribed by ordinance~~ >>by appointment of the majority of the remaining members. All vacancy elections will run concurrent with the regularly scheduled city elections. Appointments will be to serve the remainder of the term until the next regular **general** election cycle. ~~If there are less than six (6) months remaining in the unexpired term, the term will extend to the next regularly scheduled city election.<<”~~

Numerous individuals spoke against the proposed language stating the language should remain as is currently reflected in the Code of Ordinances.

Motion by Mr. Moore, seconded by Mr. McLeod, to approve the language as presented and revised. Mr. Chandler felt that language should be included should Council fail to fill the vacancy within thirty (30) days. Mr. McLeod withdrew his second to the motion. There was further discussion to change the time frame from thirty (30) days to sixty (60) days.

Motion by Mr. Moore, seconded by Mr. McLeod, to approve the following language:

“When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled ~~in accordance with the procedures prescribed by ordinance~~ >>by appointment of the majority of the remaining members within sixty (60) days. If the majority of the remaining members of the City Council fail to fill the vacancy through appointment within the sixty-day period, a special election to fill the vacancy shall be called and held in a manner coordinated by the City Clerk with the Supervisor of Elections and adopted by resolution of the City Council. All vacancy elections will run concurrent with the regularly scheduled city elections. Appointments will be to serve the remainder of the term until the next general election cycle if there are less than six (6) months remaining in the unexpired term.<<”

Mr. Delgado asked if the ordinances would be null and void should this Charter amendment be approved by the voters. Ms. Smith explained that the ordinances could not conflict with the Charter, but the Charter was superior to any ordinance. However, any ordinances that conflicted with the Charter would be modified accordingly by staff and presented to City Council.

Motion carried with members voting as follows:

Chair Capote	Yea
Vice-Chair Weinberg	Yea
Mr. Delgado	Nay
Mr. McLeod	Yea
Mr. Moore	Yea
Mr. Jones	Yea
Mr. Chandler	Yea

**4. Article III, Legislative – Section 3.08, Procedures  
(Subsection 3.081, Meetings)**

The following language was proposed by staff:

“>>Beginning January 2023,<< the council shall have regular council meetings at least twice each month, >>except for June,<< at the city hall or other municipal building, at such times and places as the council may prescribe. Special meetings and workshops may be held at the call of any councilmember and, whenever practicable, upon no less than twenty-four (24) hours verbal and written notice to each member and the public. Such notice shall state the specific purpose or purposes of the meeting. No additional items shall be considered at such special meetings.”

Bill Battin, resident, felt there was a pitfall in the process because if everyone was off at the same time, there was the potential for delaying an item that required immediate action.

Motion by Mr. Moore, seconded by Mr. Chandler, to approve the language as presented. Mr. Delgado felt language should be included to address emergencies. Mr. Jones said the Charter currently included language for the calling of special meetings and workshops.

**NEW BUSINESS:**

**1. Review and discussion of the City Charter.**

**a. Article VIII, Public Safety**

There were no proposed revisions.

**b. Article IX, Miscellaneous Provisions**

There were no proposed revisions.

**c. Article X, Transition Schedule**

There were no proposed revisions.

The next meeting would be held on Tuesday, February 22, 2022, at 6:00 P.M. The items for review would be as follows: Article VI, Taxes and Fees; and Article VII, City Borrowing.



**ADJOURNMENT:**

The meeting adjourned at approximately 7:32 P.M.

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William Capote, Chair

ATTEST:

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Terese M. Jones, City Clerk



## **LEGISLATIVE MEMORANDUM**

**DATE:** 2/22/2022

**RE:** Proposed amendments approved by the Commission. (INFORMATION ONLY)

**ATTACHMENTS:**

**Description**

**Items Approved by Commission**

# ITEMS APPROVED BY CHARTER REVIEW COMMISSION

(as of February 8, 2022)

## 1. Article III, Legislative – Section 3.05, Prohibitions (Subsection 3.053, Holding Other Office)

- (a) No ~~>>current or<<~~ former elected city official, nor any relative of such former elected city official, shall hold any compensated appointive city office or employment until, at least, two (2) years after the expiration of the term for which elected. This provision shall not apply to relatives of any current or former elected city official holding a compensated appointive city office or position of employment prior to November 9, 2016.
- (b) For the purposes of this section, "relative" shall mean an individual who is related to the ~~>>current or<<~~ former elected city official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

## 2. Article III, Legislative – Section 3.06, Vacancies (Subsection 3.062, Filling of Vacancies)

When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled ~~in accordance with the procedures prescribed by ordinance~~ ~~>>~~by appointment of the majority of the remaining members within sixty (60) days. If the majority of the remaining members of the City Council fail to fill the vacancy through appointment within the sixty-day period, a special election to fill the vacancy shall be called and held in a manner coordinated by the City Clerk with the Supervisor of Elections and adopted by resolution of the City Council. All vacancy elections will run concurrent with the regularly scheduled city elections. Appointments will be to serve the remainder of the term until the next general election cycle if there are less than six (6) months remaining in the unexpired term.~~<<~~

## 3. Article III, Legislative – Section 3.08, Procedures (Subsection 3.081, Meetings)

~~>>~~Beginning January 2023,~~<<~~ the council shall have regular council meetings at least twice each month, ~~>>~~except for June,~~<<~~ at the city hall or other municipal building, at such times and places as the council may prescribe. Special meetings and workshops

may be held at the call of any councilmember and, whenever practicable, upon no less than twenty-four (24) hours verbal and written notice to each member and the public. Such notice shall state the specific purpose or purposes of the meeting. No additional items shall be considered at such special meetings.

**4. Article III, Legislative – Section 3.09, Petitions to Amend the City Charter or to Adopt or Repeal Ordinances  
(Subsection 3.092, Petitions)**

(1) Number of signatures. All petitions must be signed by at least ten percent (10%) of the electors of the city. They need not be in affidavit form. The petition to amend the charter must be signed by at least ten percent (10%) of the electors of the city of the registered electors as of the last preceding municipal general election or as provided in section 166.031 Florida Statutes as may be amended from time to time. Petitions to propose or repeal ordinances must be signed by at least ~~five percent (5%)~~ **>>ten percent (10%)<<** of the registered electors as of the last preceding municipal general election.

**5. Article IV, Administrative – Section 4.01, City Manager  
(Subsection 4.011, Appointment)**

The council shall appoint a manager by a majority vote of all councilmembers. The manager shall be selected solely on the basis of administrative and executive qualifications. At the time of appointment, the manager need not be a resident of the city or state. However, should the manager change residency subsequent to his **>>or her<<** appointment, the manager shall reside within the city during his **>>or her<<** tenure.

**6. Article V, Qualifications and Elections – Section 5.04, Elections  
(Subsection 5.041, Councilmembers)**

A councilmember shall be elected to a specific seat on the council. The councilmember shall be elected by receiving the highest vote total of the votes cast in the election for a designated council seat. In the event of a tie vote in a special or regular election in which two (2) or more candidates are seeking the same designated seat on the council, a run-off election will only be held ~~if breaking the tie would~~ **>>to<<** determine the successful candidate. Each elective officer shall hold such office until a successor is elected and qualified. Absentee voting shall be permitted in all elections as provided by law.



## **LEGISLATIVE MEMORANDUM**

**DATE:** 2/22/2022

**RE:** Review and discussion of the City Charter - Article VI, Taxes and Fees; Article VII, City Borrowing.

**ATTACHMENTS:**

**Description**

City Charter, Articles VI and VII

## **ARTICLE VI. TAXES AND FEES**

### **Section 6.01 TAXES.**

(a) The council shall have full power and authority to levy taxes as authorized by law.

(b) Unless otherwise allowed by this subsection, the City Council shall not impose any ad valorem tax for city purposes at a millage rate which causes the budgeted revenue therefrom to the City to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%).

(c) Notwithstanding paragraph (b) of this subsection, the City Council may impose an ad valorem tax for municipal purposes at a rate which exceeds the limitations in paragraph (b) if a supermajority of the City Council concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based and shall be valid for a single budget year.

(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraph (b) of this subsection, the City Council shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: 1) new construction; 2) additions to or demolitions in whole or in part of existing construction; and 3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation).

(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Amendment adopted by electorate 11-8-16)

### **CHARTER LANGUAGE PRIOR TO 2016**

### **Section 6.01 TAXES.**

The council shall have full power and authority to levy taxes as authorized by law.

## **Section 6.02 SPECIAL ASSESSMENTS.**

Before the governing body for the city may levy any special assessment involving more than fifty (50) property owners or involving a project expenditure of greater than twenty-five thousand dollars (\$25,000.00), the proposed assessment must first be approved, in writing, by a majority vote of the affected property owners who return a ballot.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Ord. 2001-57, passed 9-6-01) (Adopted by electorate 11-6-01) (Amendment adopted by electorate 11-8-16, 11-05-19)

## **CHARTER LANGUAGE PRIOR TO 2016**

## **Section 6.02 SPECIAL ASSESSMENTS.**

Before the governing body for the city may levy any special assessment involving more than fifty (50) property owners or involving a project expenditure of greater than twenty-five thousand dollars (\$25,000.00), the proposed assessment must first be approved, in writing, by a majority vote of the affected property owners who return a ballot.

## **Section 6.03 LICENSING FEES.**

The city may levy reasonable business, professional, and occupational fees on businesses, professions and occupations, according to law.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

## **ARTICLE VII. CITY BORROWING**

### **Section 7.01 AUTHORITY TO BORROW.**

The council may borrow money, contract loans, and issue notes and bonds as may be authorized by state law.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

### **Section 7.02 BOND ISSUES.**

(a) The council may authorize the issuance of bonds and notes by resolution or ordinance, or if required by the Constitution of the state of Florida by affirmative vote of the electors of Palm Bay, to finance approved city projects.

(b) The council shall approve the terms and manner of sale and distribution or other disposition of any and all notes and bonds it may issue and it shall have any and all powers necessary or convenient to such disposition.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

### **Section 7.03 SINKING FUNDS.**

The council may establish and administer appropriate sinking funds for the satisfaction of any outstanding indebtedness of the city.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)