



AGENDA

CHARTER REVIEW COMMISSION

Tuesday, March 15, 2022 - 6:00 PM

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

CALL TO ORDER: Meeting 2022-05

PLEDGE OF ALLEGIANCE:

ROLL CALL:

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 2022-04; February 22, 2022.

REPORTS:

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

UNFINISHED AND OLD BUSINESS:

1. Article III, Legislative - Section 3.03, Compensation.
2. Article VI, Taxes and Fees - Section 6.02, Special Assessments

ADJOURNMENT: Next Meeting Date - Tuesday, March 29, 2022.

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: 3/15/2022

RE: Meeting 2022-04; February 22, 2022.

ATTACHMENTS:

Description

Meeting 2022-04

City of Palm Bay, Florida
CHARTER REVIEW COMMISSION
Meeting 2022-04

Held on Tuesday, the 22nd 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 6:01 P.M.

Mr. Moore led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIR:	William Capote	Present
VICE-CHAIR:	Phil Weinberg	Present
MEMBER:	Ken Delgado	Absent
MEMBER:	David Myers	Present
MEMBER:	Jeffrey McLeod	Present
MEMBER:	Phil Moore	Present
MEMBER:	David Jones	Present
MEMBER:	Jordin Chandler	Present
MEMBER:	Randal Olszewski	Present
MEMBER:	Kay Maragh	Present

ALSO PRESENT:

Suzanne Sherman, City Manager; Patricia Smith, City Attorney; Terri Lefler, Deputy City Clerk.

PRESENTATIONS:

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

Mr. Napoli advised of the process for the analysis which consisted of conducting a baseline financial analysis of the General Fund; creating framework for scenario evaluation and sensitivity tests; exploring future impacts of decision alternatives; and

developing a long-term financial management plan. Stantec had performed an analysis for the city in Fiscal Year 2018. Mr. Napoli said the city's reserves were projected to fall below the minimum requirement by Fiscal Year 2025 and recommended a review of the policy limiting property tax revenue growth. There was discussion and live modeling presented to the Commission.

Ms. Sherman said the city was currently investing \$750,000 into the Road Maintenance Fund (RMF) on an annual basis. In order to sustain the roadways completed through the Road Bond Paving Program, a goal of \$4 million would be needed, along with at least \$1.5 million annually for capital projects. She said it was challenging in the current environment with the three percent (3%) cap.

Ms. Maragh asked if the millage rate would remain the same if the cap were removed. Mr. Napoli confirmed same and answered further questions posed by the Commission.

Ms. Sherman noted that the policy regarding reserves had been changed. It used to be sixty (60) days of operating funds which was changed to two (2) months of operating funds in reserves. She said reserves actually increased every year when the annual budget increased. A Stabilization Policy had also been implemented which provided that an additional 2%-4% of the annual approved budget was also put side for reserves.

PUBLIC COMMENTS:

1. Bill Battin, resident, asked if any items approved by the Commission could be reconsidered due to a new member of the Commission being appointed.

ADOPTION OF MINUTES:

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

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

REPORTS:

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

Mr. Chandler addressed Mr. Battin's comment and felt that items could be reconsidered and discussed under Unfinished and Old Business on future agendas. Chair Capote asked that members contact the City Clerk to have items placed on the agenda.

UNFINISHED AND OLD BUSINESS:

1. Article III, Legislative – Section 3.06, Vacancies (Subsection 3.062, Filling of Vacancies). (Phil Moore)

The following language was presented at the last meeting:

“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.<<”

The Commission concurred that the last sentence of the paragraph was deleted at the previous meeting.

Motion by Mr. Olszewski, seconded by Mr. Moore, to remove the last sentence of the proposed language as stated above.

Bill Battin, resident, said the citizens should be given the right to vote and any vacancies should be filled by the vote of the people.

Ms. Smith said regular elections were held every two (2) years. Should a vacancy occur, the proposed language would essentially cause a “special election”; however, said election would be held when the city was holding its regular election.

Mr. Olszewski did not feel the proposed language as explained by Mr. Moore would be conveyed properly to the average voter. He said if the ballot question was not presented to receive a clear yes or no response, it would cause confusion for the voters.

Ms. Smith suggested that the last sentence read as follows: “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.~~” She clarified that once the Commission

made its recommendations to Council and Council determined which items would be placed on the ballot, legal staff would prepare the ballot language pursuant to law, which would also be considered by Council. The final form for the ballot would be a summary and not the actual charter language.

Residents spoke against the proposed language and did not agree with Council having the authority to make the appointment.

Mr. Olszewski withdrew his motion.

Motion by Olszewski, seconded by Mr. Myers, to revise the language to read as follows: "Appointments will be to serve ~~the remainder of the term~~ until the next general election cycle." The motion carried unanimously.

2. Article III, Legislative – Section 3.03, Compensation. (CONTINUED TO NEXT MEETING)

The item was continued to the next meeting.

NEW BUSINESS:

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

a. Article VI, Taxes and Fees

Section 6.01 Taxes

Mr. Moore proposed the following revisions:

(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."~~

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

Vice-Chair Weinberg said the presentation by Stantec was clear. The three percent (3%) cap had an effect on the City's budget and finances and would cause serious problems within a few years. He felt the cap was implemented illegally back in 2016 because a specific process was not followed which was to ask the Brevard Legislative Delegation for special legislation to permit a cap on ad valorem revenues. He said the City's outside counsel at that time expressing concerns about the procedure that was taken to implement the cap.

Mr. McLeod asked how staff was affected. Ms. Sherman said that the way the cap was structured and how staff had to look at revenues that came in each year, it had become increasingly difficult to properly fund city operations in order to meet the needs of a growing city.

Mr. Olszewski said that the restrictions that existed in the current language stated that the new construction would not be counted against the total revenues each year. He said that each taxpayer was held to the millage rate that would equal the city making three percent (3%) more than they made when that taxpayer was included in the process the previous year. In addition, City Council had the authority, by supermajority vote, to exceed the cap should an emergency or critical need arise.

Ms. Sherman said that a few things caught her attention when the cap was implemented: funding capital improvements for the General Fund; funding the Road Maintenance Fund; and adjusting pay ranges for employees, which had not been addressed in over ten (10) years. She detailed the challenges she had been facing due to the cap.

Ms. Maragh felt the City was in critical need right now. She had seen Fire Department staff on numerous occasions begging for funding for a new fire station and updated apparatus. She said funding was needed for both the Fire and Police Departments and did not feel that the cap allowed the City to be fiscally responsible.

Motion carried with members voting as follows:

Chair Capote	Yea
Vice-Chair Weinberg	Yea
Mr. Myers	Yea
Mr. McLeod	Yea
Mr. Moore	Yea
Mr. Jones	Yea
Mr. Chandler	Yea
Mr. Olszewski	Nay
Ms. Maragh	Yea

Section 6.02 Special Assessments

Vice-Chair Weinberg proposed the following language:

~~“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.~~ >>City Council shall have the power to impose special assessments for roads, infrastructure and other appurtenances. Before the governing body for the city may levy any special assessment, other than for roads, infrastructure and other appurtenances, 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.<<

Motion by Vice-Chair Weinberg, seconded by Ms. Maragh, to approve the revised language as presented. Mr. McCleod suggested tabling item as he wanted to see the information in writing. Ms. Maragh withdrew her second.

Motion by Vice-Chair Weinberg, seconded by Ms. Maragh, to table the item to the next meeting. Motion carried unanimously.

Bill Battin, resident, said that if assessments were implemented, he suggested that it not exceed a personal millage rate of 10.

Section 6.03 Licensing Fees

There were no proposed revisions.

b. Article VII, City Borrowing

There were no proposed revisions to this article.

The next meeting would be held on Tuesday, March 15, 2022, at 6:00 P.M.

ADJOURNMENT:

The meeting adjourned at approximately 8:13 P.M.

William Capote, Chair

ATTEST:

Terri J. Lefler, Deputy City Clerk



LEGISLATIVE MEMORANDUM

DATE: 3/15/2022

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

ATTACHMENTS:

Description

Proposed Amendments - Approved by CRC

ITEMS APPROVED BY CHARTER REVIEW COMMISSION

(as of February 22, 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 until the next general election cycle.<<

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.

7. 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%).~~

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LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Terese Jones, City Clerk

DATE: 3/15/2022

RE: Article III, Legislative - Section 3.03, Compensation.

Information forthcoming

REQUESTING DEPARTMENT:
Legislative



LEGISLATIVE MEMORANDUM

DATE: 3/15/2022

RE: Article VI, Taxes and Fees - Section 6.02, Special Assessments

ATTACHMENTS:

Description

Language Proposed by Vice-Chair Weinberg

UNFINISHED AND OLD BUSINESS

Article VI, Taxes and Fees – Section 6.02, Special Assessments

Language proposed by Vice-Chair Weinberg

~~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.~~

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