



AGENDA

CHARTER REVIEW COMMISSION

Tuesday, April 26, 2022 - 6:00 PM
Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida 32907

CALL TO ORDER:

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 2022-07; April 12, 2022.

REPORTS:

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

UNFINISHED AND OLD BUSINESS:

1. Reconsideration and discussion of the City Charter - Article VI, Taxes and Fees, Section 6.01, Taxes. (Commissioner Chandler)

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: 4/26/2022

RE: Meeting 2022-07; April 12, 2022.

ATTACHMENTS:

Description

Minutes - Meeting 2022-07

City of Palm Bay, Florida
CHARTER REVIEW COMMISSION
Meeting 2022-07

Held on Tuesday, the 12th day of April 2022, 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.

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

ROLL CALL:

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

ALSO PRESENT:

Suzanne Sherman, City Manager; Patricia Smith, City Attorney; Terese Jones, City Clerk; Frank Watanabe, City Engineer.

PUBLIC COMMENTS:

A resident made a general comment.

Mr. McLeod joined the meeting at approximately 6:05 P.M.

ADOPTION OF MINUTES:

1. Meeting 2022-06; March 29, 2022.

Motion by Mr. Olszewski, seconded by Mr. Chandler, to adopt the minutes as presented.
Motion carried unanimously.

REPORTS:

There were no comments related to this item.

NEW BUSINESS:

1. Discussion of an Inspector General/Internal Auditor position as an appointed Charter Officer.

The item was withdrawn from the agenda.

2. Discussion of including provisions in the City Charter to fund the Road Maintenance Fund.

Ms. Sherman stated that her recommendation on this item was not to further restrict the flexibility of the city's use of funds by placing provisions in the City Charter that would lock the city into a specific funding amount, percentage, millage rate, etc. She advised that, historically, funding for road maintenance came from the proceeds of property sales, which was an unsustainable, non-reoccurring source. For the past two fiscal years, approximately \$750,000 was added to the budget as a recurring line item. Ms. Sherman said that the Bayfront Community Redevelopment Agency would sunset in a couple of years and her recommendation would be to place those ad valorem taxes back into the General Fund for the Road Maintenance Fund.

Mr. Jones joined the meeting at approximately 6:11 P.M.

Mr. Watanabe provided an overview of the Road Bond Paving Program, pavement management, rejuvenation, pavement preservation and a road maintenance matrix plan. Ms. Sherman and Mr. Watanabe answered questions posed by the Commission.

Ms. Maragh joined the meeting at approximately 6:15 P.M.

Mr. Jones, also a member of the Infrastructure Advisory and Oversight Board (IAOB), said the IAOB had discussions regarding this item and one of the main questions was the funding for all phases of the Road Program. Mr. Watanabe said City Council had approved the program, but not the funding. Chair Capote said funding was allocated

based on the units being paved at that time, but due to the three percent (3%) cap, a strain was also placed on how well the maintenance program could be funded.

Ms. Maragh questioned where the funding came from for the maintenance program. Mr. Watanabe clarified that the Road Bond Paving Program did not support the funding for Road Maintenance. The Road Maintenance Fund was funded solely by the General Fund and had a current budget approximately \$2 million. Ms. Maragh asked if there was any other funding mechanism besides the General Fund. Ms. Sherman responded in the negative and said that without the three percent (3%) cap, there would be more flexibility to properly fund some of the critical items for the city. Mr. Delgado did not feel that a ballot question to remove the three percent (3%) cap would be approved by the voters. There was further discussion by the Commission regarding paving, maintenance, the stormwater program and fees, pipe replacement, etc.

Vice-Chair Weinberg said there was no way to add a provision to the City Charter to address road maintenance without handcuffing the city.

Bill Battin, resident, said he had watched the budget change over the years, and it all depended on the City Manager. There was no guarantee that road maintenance was going to be a high priority in the future. There were also no funds designated in the budget for infrastructure.

Mr. Delgado asked if there were other avenues for the city to receive additional revenue, such as increasing the gas tax by one cent. Ms. Sherman said Brevard County had the authority to levy the gas tax, not the city. She advised that the city received state-shared revenue from the existing gas tax which was approximately \$3.6 million. Those dollars were part of the General Fund and supported operations and departmental needs.

Ms. Maragh asked if staff had looked at other municipalities to see what they were doing and how they were receiving funds for such purposes, and if an option could be to dedicate one mil towards road maintenance. Ms. Sherman said staff was always looking at options, but common practice was that it was built into the General Fund and not the City Charter.

No action was taken on this agenda item.

Mr. Chandler asked to reconsider Section 6.01, Taxes, as he wanted to revisit the three percent (3%) cap and possibly increase it to six percent (6%). He requested the City's consultant, Stantec, be available to answer questions and provide scenarios.

Motion by Mr. Chandler, seconded by Mr. Jones, to reconsider Section 6.01, Taxes, at the next meeting.

Mr. McLeod asked that the City Manager also present her explanation as to how a six percent (6%) cap could benefit or hinder the city.

Mr. Moore said there was no other municipality that had a three percent (3%) cap in place which was why he had previously presented to remove it from the Charter. He did not support reconsidering the issue to increase something that should have never been in place.

Motion carried with members voting as follows:

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

Mrs. Jones announced that the next meeting would be held on Tuesday, April 26, 2022, at 6:00 P.M.

ADJOURNMENT:

The meeting adjourned at approximately 7:49 P.M.

William Capote, Chair

ATTEST:

Terese M. Jones, City Clerk



LEGISLATIVE MEMORANDUM

DATE: 4/26/2022

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

ATTACHMENTS:

Description

Proposed Amendments - Approved by CRC

ITEMS APPROVED BY CHARTER REVIEW COMMISSION

1. Article III, Legislative – Section 3.03, Compensation

Effective November 9, 2016 >>2022<<, the salary for the office of Mayor shall be at the rate of 20 >>25<< cents per capita, and the salary for the office of Councilmember shall be set at the rate of 40 >>20<< cents per capita. The per capita numbers utilized shall be the population as of the date of approval of this revision as set forth in the most recent population estimate of the Bureau of Economic and Business Research of the University of Florida. The annual salary of the Council shall not be increased by more than the increase in the Consumer Price Index, or the annual increase given to City employees, whichever is lower. The annual salary shall be reviewed during the City's annual budget process. No increase in salary shall become effective until October 1.

2. 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.

3. 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.<<

**4. 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.

**5. 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.

**6. 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.

**7. 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.

8. 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.~~



LEGISLATIVE MEMORANDUM

DATE: 4/26/2022

RE: Reconsideration and discussion of the City Charter - Article VI, Taxes and Fees, Section 6.01, Taxes. (Commissioner Chandler)

ATTACHMENTS:

Description

Article VI. Taxes and Fees

ARTICLE VI. TAXES AND FEES

REVISED CHARTER LANGUAGE; APPROVED BY THE COMMISSION ON 02/22/22

Section 6.01 TAXES.

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

CURRENT CHARTER LANGUAGE

Section 6.01 TAXES.

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(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.

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