



AGENDA

CHARTER REVIEW COMMISSION

Meeting No. 2016-07

Monday – July 18, 2016 - 6:30 P.M.

City Hall Council Chambers

120 Malabar Road, Palm Bay, FL 32907

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Meeting No. 2016-05; July 11, 2016.
2. Meeting No. 2016-06; July 12, 2016.

PUBLIC COMMENTS:

Public comments will be heard by the Commission at the time an agenda item is presented for consideration or discussion. Speakers are limited to three (3) minutes each.

REPORTS:

1. Chairman.
2. City staff.
3. Commission members.

UNFINISHED BUSINESS:

1. Review of Article VI, Taxes and Fees.

NEW BUSINESS:

1. Review and discussion of the City Charter.

ADJOURNMENT:

If an individual decides to appeal any decision made by the Charter Review Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

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.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE

City of Palm Bay, Florida

CHARTER REVIEW COMMISSION

Meeting No. 2016-05

Held on Monday, the 11th day of July 2016, 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 Weinberg at 6:35 P.M.

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

ROLL CALL:

CHAIRMAN:	Philip Weinberg	Present
VICE CHAIRMAN:	James Boothroyd	Present
MEMBER:	Donny Felix	Present
MEMBER:	Cynthia Moore	Present
MEMBER:	Kenneth Delgado	Present
MEMBER:	Robert Llewellyn	Present
MEMBER:	Ken Greene	Present
MEMBER:	Maria DeChristofano	Present
MEMBER:	David Myers	Present
MEMBER:	Bill Battin	Present

ALSO PRESENT:

Gregg Lynk, City Manager; Terese Jones, City Clerk; Patricia Smith, Deputy City Attorney.

ADOPTION OF MINUTES:

1. Meeting No. 2016-02; June 30, 2016.

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

2. Meeting No. 2016-03; July 5, 2016.

Motion by Mr. Battin, seconded by Ms. DeChristofano, to adopt the minutes with the following correction to the vote on Page 3, under Item No. 1, Unfinished Business:

Motion by Mr. Battin, seconded by Mr. Greene, that the language in Section 3.03 remained as is.

Motion failed with members voting as follows:

Mr. Weinberg	Nay
James Boothroyd	Nay
Donny Felix	Nay
Cynthia Moore	Nay
Kenneth Delgado	Nay
Robert Llewellyn	Nay
Ken Greene	Aye
Maria DeChristofano	Nay
David Myers	Nay
Bill Battin	Aye

3. Meeting No. 2016-04; July 6, 2016.

Motion by Ms. DeChristofano, seconded by Ms. Moore, to adopt the minutes with the following correction on Page 4, last paragraph prior to Adjournment:

“Mr. Delgado asked that staff research the following information as it pertained to roads: 1) how much money was funded for roads and from what source for the past five (5) years; and 2) what basis or category was used to establish the condition of a road.”

Motion carried unanimously.

PUBLIC COMMENTS:

There were no public comments.

REPORTS:

1. Chairman.

There was no report from the Chairman.

2. City staff.

There were no reports from City staff.

3. Commission members.

There were no reports from Commission members.

UNFINISHED BUSINESS:

☞ Article IV. Administrative

Section 4.01. City Manager.

4.014. Bond.

Staff advised that no other municipalities in the county required a bond for its City Managers. Mr. Battin wanted to leave the language as is, but wanted to know how much was being paid. Mr. Lynk would research and advise the Commission accordingly.

At the last Commission meeting, Mr. Delgado requested information pertaining to the roads. Mr. Lynk advised that with regard to a funding source for the roads, monies were received from the millage rate and the General Fund. He would provide exact figures at a later date. He stated that through the Local Road Advisory Board and Public Works Department, a Pavement Condition Index (PCI) would be performed on a roadway which would determine whether a road was satisfactory, failing or failed. This was done by giving the road a number between zero (worst) and 100 (best).

Mr. Delgado asked how many roads were in the city and how many were failing. Mr. Weinberg answered that there were 851 miles of roads, and 357 were in a failed state. Mr. Lynk clarified that 168 of the failed roads were located in an undeveloped area in the southwest quadrant of the city. Mr. Delgado asked how much millage was used in the last five (5) years. Mr. Lynk said that last year, 0.5 mils or \$1.7 million was used, but as the millage rate changed, the taxes changed as well. The year prior to last, one mil or just under \$3 million was used towards roads.

1. Review of the following articles:

a) Article III, Legislative, Section 3.03, Compensation.

Mr. Weinberg presented the following language for review:

“Shall Section 3.03 of the City Charter be revised to establish the compensation for the City Council by ordinance? The salary for the Mayor shall be at the rate of 12 cents per capita and 8 cents per capita for Councilmembers. The per capita

numbers utilized shall be the population as of the date of approval of this revision. 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. No increase in salary shall become effective until 6 months after the next regular City election.”

Mr. Battin asked what the salary would be based on the per capita figures provided. Mr. Weinberg advised that based on the estimated population of 111,000, the Mayor’s salary would be \$13,300 and \$8,800 for each Councilmember. It would most likely increase by the time the revision took effect. Mr. Lynk suggested that a provision be included as to when the salary would become effective due to the constant fluctuation in population.

Mr. Felix felt the amounts were too low. He felt it was a full-time job and those who served should be compensated accordingly. He said the figures should be \$.30 for the Mayor and \$.25 for each Councilmember, and the median household income should be used instead of the Consumer Price Index (CPI). Ms. DeChristofano said that data was needed to confirm the amount of hours worked, miles travelled, etc. She said that would be a good selling point for the public. Mr. Battin said it was important to note that the current councilmembers had full-time jobs. Future members of Council may be retired or only work part-time. He felt that everyone who volunteered their time did not necessarily have to be compensated when it was being done for the love of their city. There was further discussion on compensation.

Motion by Mr. Myers, seconded by Mr. Boothroyd, to approve the language as presented by Mr. Weinberg. Mr. Battin advised that, based on the proposed language, increases could not be given except for every two (2) years and the employee group type would need to be designated as all employees did not receive the same pay increases. Mr. Felix wanted the salaries to be higher, but did not want to exceed the median income. He would not support the motion.

Motion by Mr. Myers, seconded by Mr. Delgado, to amend the motion to approve the language as presented by Mr. Weinberg with the following revision:

“Shall Section 3.03 of the City Charter be revised to establish the compensation for the City Council by ordinance? The salary for the Mayor shall be at the rate of 12 cents per capita and 8 cents per capita for Councilmembers. The per capita numbers utilized shall be the population as of the date of approval of this revision. 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. ~~No increase in salary shall become effective until 6 months after the next regular City election.~~ The

annual salary shall be reviewed during the City's annual budget process. No increase in salary shall become effective until October 1."

Motion carried with members voting as follows:

Mr. Weinberg	Aye
James Boothroyd	Aye
Donny Felix	Nay
Cynthia Moore	Did not vote
Kenneth Delgado	Aye
Robert Llewellyn	Aye
Ken Greene	Nay
Maria DeChristofano	Aye
David Myers	Aye
Bill Battin	Aye

b) Article V, Qualifications and Elections, Section 5.04, Elections.

5.041. Councilmembers.

There were no recommended changes to the section.

5.042. Elections and terms of office.

The following language was presented by staff for the Commission's for review:

5.042 Elections and terms of office. A primary election and a general election are to be held pursuant to law. The regular or general election of councilmembers shall be held on the first Tuesday after the first Monday of November. Councilmembers shall be elected to a four (4) year term of office and limited to three (3) consecutive four (4) year terms. For the purpose of this limitation, a partial term shall be considered a full term, except for appointments of less than one (1) year. ~~Councilmembers shall not be eligible for reelection to the council for a term immediately succeeding a third consecutive term.~~ No councilmember may appear on the ballot for reelection if by the end of the current term of office, the councilmember will have served (or, but for resignation, would have served) in that office for twelve (12) consecutive years. All councilmembers shall be elected at-large. The mayor and two (2) other councilmembers, Seats 2 and 3, shall be elected in the same year as the presidential election. The two (2) additional councilmembers, Seats 4 and 5, shall be elected in the following even year. Primary Elections shall be held on the second Tuesday after the first Monday in the month of September

OR

be held on the Tuesday nine weeks prior to the general election or such other date as established by applicable general law of the state for primary elections.

The Commission concurred to move the last sentence above, which addressed when primary elections would be held, to the newly proposed Section 5.043 language.

5.043 Primary Elections.

Primary Elections shall be held on the Tuesday nine weeks prior to the general election or such other date as established by applicable general law of the state for primary elections.

(a) Should there be more than two (2) qualifying candidates for Mayor or for a given Council seat, their names will be placed on the primary ballot. The two (2) primary candidates receiving the highest number of votes shall be the candidates in the general election. The candidate receiving the highest number of votes in the general election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three (3) qualifying candidates for Mayor or for a given Council seat, their names will not appear on the primary election ballot but they will appear on the general election ballot. If a candidate for Mayor or for a given Council seat receives more than fifty percent (50%) of the vote in a primary election, then said candidate shall be declared elected to the office and no names shall appear on the general election ballot.

(b) If a vacancy in candidacy occurs caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office, then the qualifying date shall be extended to the latest date for which the general election guidelines may be met. If the elections guidelines cannot be met then the remaining candidate shall be declared the winner.

Mr. Battin stated that fifty percent (50%) of the vote did not constitute the majority in the general election and did not agree with the language being included in the primary election. He expressed concern in low voter turnout in other primary elections. There was further discussion on the proposed language.

Motion by Mr. Delgado, seconded by Mr. Boothroyd, to remove the last sentence of the proposed language for Section 5.043(a), Primary Elections.

(a) Should there be more than two (2) qualifying candidates for Mayor or for a given Council seat, their names will be placed on the primary ballot. The two (2) primary candidates receiving the highest number of votes shall be the candidates in the general election. The candidate receiving the highest number of votes in the general election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three (3) qualifying candidates for Mayor or for a given Council seat, their names will not appear on the primary election ballot but they will appear on the general election ballot. ~~If a candidate for Mayor or for a given Council seat receives more than fifty percent (50%) of the vote in a primary election, then said candidate shall be declared elected to the office and no names shall appear on the general election ballot.~~

Motion carried with members voting as follows:

Mr. Weinberg	Aye
James Boothroyd	Aye
Donny Felix	Nay
Cynthia Moore	Aye
Kenneth Delgado	Aye
Robert Llewellyn	Nay
Ken Greene	Aye
Maria DeChristofano	Nay
David Myers	Aye
Bill Battin	Aye

Motion by Mr. Llewellyn to leave the sentence as is, but change the percentage to seventy percent (70%). Motion died for lack of second.

There was discussion on the proposed language for Section 5.043(b). As the language conflicted with Section 50.15, Vacancy in Candidacy, the Commission concurred that the proposed language was not needed and would be removed. A motion was not required.

Mr. Weinberg asked that all proposed revisions be restated and a vote taken on each affected section within Article V.

Motion by Mr. Boothroyd, seconded by Mr. Felix, to approve the language for Section 5.042 as follows:

5.042 Elections and terms of office. A primary election and a general election are to be held pursuant to law. The regular or general election of councilmembers shall be held on the first Tuesday after the first Monday of November. Councilmembers

shall be elected to a four (4) year term of office and limited to three (3) consecutive four (4) year terms. For the purpose of this limitation, a partial term shall be considered a full term, except for appointments of less than one (1) year. ~~Councilmembers shall not be eligible for reelection to the council for a term immediately succeeding a third consecutive term.~~ No councilmember may appear on the ballot for reelection if by the end of the current term of office, the councilmember will have served (or, but for resignation, would have served) in that office for twelve (12) consecutive years. All councilmembers shall be elected at-large. The mayor and two (2) other councilmembers, Seats 2 and 3, shall be elected in the same year as the presidential election. The two (2) additional councilmembers, Seats 4 and 5, shall be elected in the following even year.

Motion carried unanimously.

Mr. Weinberg read the proposed language for Section 5.043. Motion by Mr. Llewellyn, seconded by Mr. Delgado, to approve the language as follows:

5.043 Primary Elections.

Primary Elections shall be held on the Tuesday nine weeks prior to the general election or such other date as established by applicable general law of the state for primary elections.

(a) Should there be more than two (2) qualifying candidates for Mayor or for a given Council seat, their names will be placed on the primary ballot. The two (2) primary candidates receiving the highest number of votes shall be the candidates in the general election. The candidate receiving the highest number of votes in the general election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three (3) qualifying candidates for Mayor or for a given Council seat, their names will not appear on the primary election ballot but they will appear on the general election ballot. ~~If a candidate for Mayor or for a given Council seat receives more than fifty percent (50%) of the vote in a primary election, then said candidate shall be declared elected to the office and no names shall appear on the general election ballot.~~

~~(b) If a vacancy in candidacy occurs caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office, then the qualifying date shall be extended to the latest date for which the general election guidelines may be met. If the elections guidelines cannot be met then the remaining candidate shall be declared the winner.~~

Motion carried with members voting as follows:

Mr. Weinberg	Aye
James Boothroyd	Aye
Donny Felix	Nay
Cynthia Moore	Aye
Kenneth Delgado	Aye
Robert Llewellyn	Aye
Ken Greene	Aye
Maria DeChristofano	Aye
David Myers	Aye
Bill Battin	Aye

The remaining sections would be renumbered accordingly.

Section 5.043. Special/run-off elections. (To be renumbered to 5.044)

There were no recommended changes to the section.

Section 5.044. Election returns. (To be renumbered to 5.045)

There were no recommended changes to the section.

Section 5.02. Qualifications.

The following language was presented by Mr. Llewellyn at the July 6th Commission meeting. Mr. Weinberg read the language for the record.

Candidates for the office of city council shall be a resident of the city and shall have been for at least two (2) years immediately preceding the election, shall be a registered voter residing at a city address, and shall qualify for such office by complying with the Florida Statutes and in such manner as may be prescribed by ordinance and shall continue to be a resident and an elector of the city during the term of office.

Motion by Mr. Llewellyn, seconded by Mr. Battin, to approve the proposed language.
Motion carried unanimously.

NEW BUSINESS:

1. Review and discussion of the City Charter.

Mr. Weinberg announced that Articles VI and VII would be discussed at the next Commission meeting to be held on July 12th.

ADJOURNMENT:

The meeting adjourned at approximately 9:25 P.M.

Philip Weinberg, Chairman

ATTEST:

Terese M. Jones, City Clerk

☞ Indicates items considered out of sequence or added to the agenda.

City of Palm Bay, Florida

CHARTER REVIEW COMMISSION Meeting No. 2016-06

Held on Tuesday, the 12th day of July 2016, 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 Weinberg at 6:32 P.M.

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

ROLL CALL:

CHAIRMAN:	Philip Weinberg	Present
VICE CHAIRMAN:	James Boothroyd	Present
MEMBER:	Donny Felix	Present
MEMBER:	Cynthia Moore	Present
MEMBER:	Kenneth Delgado	Present
MEMBER:	Robert Llewellyn	Present
MEMBER:	Ken Greene	Present
MEMBER:	Maria DeChristofano	Present
MEMBER:	David Myers	Present
MEMBER:	Bill Battin	Present

ALSO PRESENT:

Gregg Lynk, City Manager; Terese Jones, City Clerk; Patricia Smith, Deputy City Attorney.

REPORTS:

1. Chairman.

There was no report from the Chairman.

2. City staff.

There were no reports from City staff.

3. Commission members.

There were no reports from Commission members.

NEW BUSINESS:

1. Review and discussion of the City Charter.

Article VII. City Borrowing.

Section 7.01. Authority to Borrow.

There were no recommended changes to the section.

Section 7.02. Bond Issues.

There were no recommended changes to the section.

Section 7.03. Sinking Funds.

There were no recommended changes to the section.

Article VI. Taxes and Fees.

Section 6.01. Taxes.

There were no recommended changes to the section.

Section 6.02. Special Assessments.

Mr. Llewellyn asked if there were any ordinances that addressed special assessments. Mrs. Jones advised that Chapter 56 of the Palm Bay Code of Ordinances was specific to special assessments.

Mr. Weinberg provided Florida Statutes for the Commission's review: Sections 170.01, 197.3632, and 403.0893. He explained that the City's Code was opposite of the language outlined in Florida Statutes. He said that the City had a shortfall of \$2.3 million in stormwater fees. This was due to the fee being placed on the property owner's utility bill. Owners of vacant lots also received the bill and had not been paying the bill as they did not have utilities and the City could not enforce payment of the bill. If the stormwater fee could be placed on the tax bill, the fee could be paid along with the tax bill. The current language in the Charter prohibited that action and did not allow special assessments. Modifying the language would allow for mandatory sewer hook-up as well.

Mr. Battin said that Section 107.01(1)(k), Florida Statutes, did not require residents to connect to sewer system until the septic failed. Mrs. Smith advised that although the statute did not require same, the City could require mandatory hook-up by ordinance. Mr. Battin provided his calculated cost comparisons for a property owner's payment of

hooking up to water and sewer. He expressed concern if the language changed. There was further discussion on special assessments.

Mr. Boothroyd asked how many other municipalities within Florida had a provision similar to Palm Bay. Mr. Weinberg advised there were two other municipalities.

Mr. Battin said that with regard to a previous special assessment for roads, the City padded the wording of that assessment by including additional identity items. He was concerned with issues such as that occurring in the future.

Ms. DeChristafano asked if there was a schedule of the roads to be paved. Mr. Weinberg advised that the information was posted on the City's website. Mr. Lynk would provide the link to the Commission. There was discussion on the process of fixing the roads.

Mr. Battin said that, according to Section 170.01(2), Florida Statutes, a special assessment could not be charged to a property owner if another property owner had already received or was currently receiving the same benefit without paying extra for said benefit. Mrs. Smith clarified that Mr. Battin's interpretation was incorrect and advised that the benefit to the property owner could not differ from one to another. There was also a process to protect the property owner should they feel that they were not receiving the same benefit as another.

Mr. Weinberg said that limitations could be included in the language. He asked that Commission members review the language and bring any changes at the next meeting.

Mr. Greene asked if the city received a lump sum of past stormwater fees, were there any provisions that prohibited those funds from being used for any other projects besides utilities. Mr. Lynk said the revenue stream was implemented to directly address stormwater.

ADJOURNMENT:

Motion by , seconded by , to adjourn. Motion carried unanimously. The meeting adjourned at approximately 8:42 P.M.

ATTEST:

Philip Weinberg, Chairman

Terese M. Jones, City Clerk