



# Charter Review Advisory Committee July 9, 2019 at 6:00 p.m.

Winter Park Community Center

721 W. New England Avenue

Winter Park, Florida

## Agenda Items

6:00 p.m.

1. Call to order
2. Roll call
3. Approval of June 11 & 25, 2019 minutes
4. Public comment
5. Review of Preliminary Recommendations to Date
6. Article II. - Legislative
  - Sec. 2.01. - Commission Created; Composition; Designation; Election Generally
  - Sec. 2.07. - Vacancies; Forfeiture of Office; Filling of Vacancies.
  - Sec. 2.08. - Procedure.
  - Sec. 2.09. - City Attorney.
  - Sec. 2.10. - Prohibitions.
  - Sec. 2.11. - Ordinances in General.
  - Sec. 2.12. - Emergency Ordinances.
  - Sec. 2.13. - Budget Adoption.
  - Sec. 2.14. - Borrowing.
  - Sec. 2.15. - Investments.
  - Sec. 2.16. - Transfer or other Use of Sewer and Refuse Fee Funds.
  - Sec. 2.17. - Annual Financial Audit.
  - Sec. 2.18. - Local Code of Ethics.
- Article III. - Nominations and Elections
  - Sec. 3.01. - Nonpartisan Elections.
  - Sec. 3.02. - Qualifications.
  - Sec. 3.03. - Form of Ballot.
  - Sec. 3.04. - Elections.
  - Sec. 3.05. - City Commissioner Seats.

Public Comment

8:00 p.m. Adjournment

## Agenda Items

### Meeting Schedule:

July 23 (6:00 p.m.)

August 13 (6:00 p.m.)

August 27 (6:00 p.m.)

September 10 (6:00 p.m.)

September 24 (6:00 p.m.)

### appeals & assistance

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“If a person decides to appeal any decision made by the Board with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.” (F.S. 286.0105).

“Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk’s Office (407-599-3277) at least 48 hours in advance of the meeting.”

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# Charter Review Advisory Committee Minutes

June 11, 2019

## Present

Steve Brandon  
Lisa Coney  
Bud Kirk, Jr.  
Lawrence Lyman  
Nick Pope (by phone)  
Marjorie Bridges  
Amanda Day  
James Johnston  
Mary Daniels

Assistant City Manager Michelle Neuner  
City Clerk Cynthia Bonham  
City Attorney Dan Langley  
Facilitator Marilyn Crotty

The meeting was called to order by Facilitator Marilyn Crotty at 5:00 p.m. in the Oak Room 'C', Winter Park Community Center, 721 West New England Avenue, Winter Park, Florida.

City Clerk Cindy Bonham called the roll. All members were present with Nick Pope by telephone.

The following resident provided comments:

Michael Perelman, 1010 Greentree Drive, commented that he wants to see what each Commissioner has presented for possible Charter changes; the public should set Commissioners salaries; wanted all documents provided to the committee to also be provided to the public; the public should be able to provide comments on the draft minutes; and asked why 2.18, Local Code of Ethics is in the Charter.

## Approval of minutes

Motion made by Lisa Coney to approve the May 28 minutes, seconded by Steve Brandon and carried unanimously with an 9-0 vote.

Ms. Crotty summarized what was agreed upon at the previous meeting. Discussion ensued regarding the addition of details in Section 2.03, Forfeiture of Members and how specific this section should be to outline the process. Ms. Crotty will research this and bring back options.

There was discussion regarding districts. Attorney Langley provided guidance on proportional voting that he researched. He stated that cities have flexibility in how they implement their elections providing there are no conflicts with State law. He stated there is nothing that prohibits the city from adopting a representational single

transferrable voting system except that the City cannot implement this because of the lack of certified software available to implement this system. Attorney Langley provided a copy from the Herald-Tribune regarding 'ranked choice voting' speaking to this issue that the Sarasota City Commission had. Upon further discussion and comments, there was a consensus to address districts later in the process to allow more time for review and to study it.

Section 2.04, Term of Office. Ms. Crotty spoke about the options and that the four-year term is becoming more common so there would be reduce the frequency of elections. Ms. Crotty provided a transition schedule if four-year terms with elections every other year on even years passed that Attorney Langley believed was viable. After members provided their preference, there was not a consensus to change the term of office.

'Term limits' were discussed and the need to make this clear in the Charter as to how long one must sit out before being able to run for office again. Attorney Langley provided his interpretation of 'consecutive' within the current Charter. After comments, there was no consensus to change term limits.

Section 2.05, Compensation. Ms. Crotty explained that normally the Commission determines the salary by ordinance as it currently is. The March 10, 2011 date in the current Charter will be deleted as it is obsolete. Ms. Crotty explained options that other cities are doing to compensate their Commissioners. Members provided their preferences and addressed the need to better compensate the Commission that would also encourage others to run for office. After further discussion, there was a consensus to set a base annual salary (that will be decided on after Ms. Crotty provides input from her research) and to increase or decrease annually based on the Consumer Price Index (not to exceed 5%).

Section 2.06. Functions of Mayor; Vice Mayor. Need to change the part regarding the appointment of Vice Mayor because of a run-off this year. Delete 'At the first regular commission meeting in April' to 'At the first regular commission meeting after certification of all elections' or something similar that the committee agrees to in case of a run-off election.

The role of the Mayor as included in the current Charter was addressed in whole and whether the committee was in agreement to change what is currently there. Discussion ensued regarding the sentence where the mayor appoints members of city boards annually. Ms. Crotty provided options whether to eliminate that or leave as is. Some members wanted to see that eliminated from the Charter and to provide the opportunity to all commissioners to recommend board members, but there was not a consensus (75% of the members in agreement) to do that. This will remain in the Charter.

Citizen comments:

Nancy Shutts, 2010 Brandywine, spoke about the Orlando Business Journal 10 years ago providing commission salaries that would be interesting to look at. She expressed

disappointment that the portion was not removed regarding the Mayor appointing board members.

Sally Flynn, 1400 Highland Road, asked that the portion be removed giving the Mayor the authority to appoint board members.

Barbara Chandler, 730 Minnesota Avenue, believed the process is broken for board appointments and that the portion should be deleted from the Charter that the Mayor annually appoints board members.

Commissioner Todd Weaver, 1051 Lake Bell Drive, addressed serving on the Lakes Board and applied for other boards after his term was up but was not appointed to other boards. He believed the procedure needs to be changed for appointments to boards.

Commissioner Carolyn Cooper commented about serving the City on boards for 12 years and that she is allowed to speak individually with citizens to answer questions and provide information she has access to that they are not aware of.

Ms. Crotty reminded the committee about the 6:00 p.m. meeting start time for the remainder of the meetings.

The meeting adjourned at 7:05.

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Cynthia Bonham, City Clerk



# Charter Review Advisory Committee Minutes

June 25, 2019

## **Present**

**Steve Brandon  
Bud Kirk, Jr.  
Amanda Day  
Mary Daniels**

**Assistant City Manager Michelle Neuner  
Kim Breland (for City Clerk Cynthia Bonham)  
City Attorney Dan Langley  
Facilitator Marilyn Crotty**

**Nick Pope (by phone)  
Marjorie Bridges (by phone)**

## **Absent**

**Lawrence Lyman  
James Johnston  
Lisa Coney**

The meeting was called to order by Facilitator Marilyn Crotty at 6:00 p.m. in the Oak Room 'C', Winter Park Community Center, 721 West New England Avenue, Winter Park, Florida.

Kim Breland called the roll. There was not a quorum because of the need to have five members physically present. Ms. Crotty stated they can begin with discussion but cannot vote on anything. Ms. Crotty commented that the minutes cannot be approved this evening and corrected Mr. Perelman's comments for the next meeting approval regarding the Code of Ethics not being in the Charter.

The following residents provided comments:

Michael Perelman, 1010 Greentree Drive, spoke about Section 2.01 and disagreed with changing the Charter to have districts saying the Charter should stay as it currently is with the commissioners being elected at large.

Jim Fitch, 1820 Via Genoa, spoke that the 75% consensus of the task force to agree to a change is overly restrictive and asked that single member districts be considered. He commented that all advisory board members need to submit their resignation and submit a new application for consideration when their term is expiring and that all five Commission members submit names for consideration of appointment to the boards. He wanted to see all Commissioners submit agenda items for the City Manager to prepare. He wanted to see the combined term limits of Mayor and Commissioners be changed and be separate. He believed that all possible changes to the Charter should be presented to the Commission to vote on.

Jennifer Anderson, 1621 Roundelay Lane, also speaking for spouse Phil Anderson, recommended that the Charter be revised to eliminate the Mayor's power in appointing citizen board members and instead let the entire Commission make the appointments.

Sally Flynn, 1400 Highland Road, spoke that she did not believe single member districts is a good idea. She agreed with changing the Charter to allow the entire Commission to appoint board members.

Marty Sullivan, 901 Georgia Avenue, agreed with changing the Charter so the Mayor does not appoint all board members.

Pat McDonald, 2348 Summerfield Road, agreed with changing the Charter so the Mayor does not make board appointments.

Ms. Crotty addressed the 75% consensus to move items forward rule that was agreed on at the first meeting. She stated it was agreed that items that did not receive consensus could be brought back up for further discussion. After questioning by Ms. Daniels, she was advised to bring it up now to be revisited at the next meeting for discussion when they have a quorum present. Ms. Daniels requested the committee readdress the issue of advisory board appointments. Attorney Langley explained the rules for a quorum.

Ms. Crotty addressed what was discussed at the last meeting regarding Forfeiture of Office and provided bullet points for a step-by-step process. She also provided language from the City of Cocoa's charter for the board to consider. Discussion ensued regarding forfeiture of office and whether any board member wants to change the way it is written.

Ms. Crotty also summarized what was discussed on June 11 regarding compensation where the board agreed to increase/decrease the annual salaries based on the Consumer Price Index not to exceed 5% of the annual salary to be effective October of each year. The percentage of change will be based on the CPI change from April to April. She compared other cities salaries with Winter Park. Board members provided their suggestions for compensation and spoke about the amount of time a Mayor or Commissioner takes to do the job right and what the public expects of them.

Ms. Crotty spoke about Section 2.06, Functions of Mayor; Vice Mayor and that the language needs to change to elect a member as Vice Mayor after the certification of all elections.

When discussing grounds for forfeiture of office, Ms. Crotty provided examples of Commission members interfering with Administration per the Charter. She also spoke about filling a vacancy on the Commission in the case when someone leaves the Commission before the next election and asked the board to consider any possible changes. Ms. Crotty will draft language for consideration.

Section 2.08, Procedure. (a) Special meetings was addressed and if there is a need to change the number of hours for notice as currently provided in the Charter. Attorney

Langley provided guidance and said that it depends on the subject matter and the statute calls for reasonable notice to the public. The Attorney General has given a range of 24 to 72 hours as acceptable. Discussion ensued regarding the amount of time this should be and if more than one Commissioner should be able to call a special meeting.

2.08, Procedure (b) Rules and Journal was discussed. This will be discussed again when the City Clerk is present.

2.09, City attorney. Ms. Crotty suggested changing this to say a majority of the city commission and perhaps adding qualifications. There was discussion whether the City Clerk should also be included in the Charter.

**Citizen comments:**

Barbara Chandler, 730 Minnesota Avenue, asked if the City Commissioners and Mayor have direct staff assigned to them and if a person running for commissioner has to physically live in the city. Attorney Langley stated they have to have a permanent residency. She asked if the public would have access to the model charter. Ms. Crotty stated it is a copywritten document that can be purchased on-line. Ms. Neuner stated that the city can provide a copy for the public's use at City Hall.

The meeting adjourned at 8:00.

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Cynthia Bonham, City Clerk



**CITY OF WINTER PARK  
CHARTER REVIEW ADVISORY COMMITTEE**

**1. PRELIMINARY RECOMMENDATIONS**

**MAY 14, 2019**

1. Make the Charter gender neutral throughout the document.
2. Preamble – add “inclusive” in the last sentence: *We desire for Winter Park to be the best place to live, work, and play in central Florida by creating an open, **inclusive**, and responsive government and preserving a superior quality of life for the current residents and future generations.*
3. Article I. – change title from Generally to **Powers and Form of Government**.
4. Change title of Section 1.01. to **Creation, Powers, and Construction**. Add the following: *The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.*
5. Sec. 1.03. Charter Amendments – This section will be moved to another Article later in the charter (placement and numbering to be determined).
6. Change Section 1.03 to: **Form of Government**. *The City of Winter Park is a municipal corporation with a Commission- Manager form of government.*
7. Article II. Legislative – Sec. 2.01. Commission Created; Composition; Designation; Election Generally. Discussion of election of Commission deferred to a later meeting.
8. Sec. 2.03. Judge of Election, Qualification, and **Forfeiture** of Members. Add forfeiture to this section and reword the section as follows: *The City Commission shall be the judge of the qualifications of its own members, subject to review by the courts, and the grounds for forfeiture of office. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A Commissioner charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.* The election canvassing board, as established under Section 304.(e), shall be the judge of the election of the members of the City Commission, subject to review by the courts.

**MAY 28, 2019**

9. Add the word “diverse” to the Preamble: *We desire for Winter Park to be the best place to live, work, and play in central Florida by creating an open, **diverse, inclusive,** and responsive government and preserving a superior quality of life for the current residents and future generations.*

10. 2.03. Judge of Election, Qualification, and **Forfeiture** of Members. Add forfeiture to this section and reword the section as follows: *The City Commission shall be the judge of the qualifications of its own members, subject to review by the courts, and the grounds for forfeiture of office. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A Commissioner charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published by the city at least one week in advance of the hearing.* The election canvassing board, as established under Section 304.(e), shall be the judge of the election of the members of the City Commission, subject to review by the courts.

11. Additional language that may be added to establish a process for forfeiture:

*The City Commission shall be the judge of the election and qualifications of its Members and of the grounds for forfeiture of their office. Before removal from office may occur, written notice must be delivered to the accused Commissioner who shall have an opportunity to be heard and defend against the accusations. The aforementioned written notice, before being delivered to the accused, must be approved by at least two-thirds of the existing membership of the City Commission that is eligible to vote on the matter. A Mayor or Commissioner may only be removed from office upon a vote wherein no less than two-thirds of the existing membership of City Commission that is eligible to vote on the matter affirmatively vote for such action. Subsequent to the aforementioned written notice being delivered to the accused, the Commission by a vote wherein no less than two-thirds of the existing membership of City Commission that is eligible to vote on the matter affirmatively vote for such action shall have the authority to suspend a Commissioner pending the disposition of charges for removal. The accused Commissioner shall not be entitled to participate in the deliberations or decision in relation to the suspension or removal except the accused shall have the right to defend against the charges as provided in this Section. Eligible to vote in this Section means any Commissioner whether present at the meeting or not, who is not prohibited by State or County law from voting because of a conflict and is not prohibited from voting because of a provision of this Charter. Where a suspension of a Commissioner occurs pursuant to this section of the Charter, the suspended official shall have the right to an immediate hearing upon demand to determine if there is sufficient evidence to establish the following two elements: (1) that probable cause exists to believe that the charges are true; and (2) that, if true, the charges would be grounds for removal. This hearing shall be held and the matter decided by the City Commission. The rules of procedure shall be the same as those which apply to the hearing for removal. If the City Commission does not find by an affirmative vote of at least*

*two-thirds of the existing membership of the Commission that is eligible to vote on the matter that the evidence produced at the hearing is sufficient to establish the aforementioned two elements, the suspension shall terminate immediately and the official shall be reinstated pending a final hearing on removal. A final hearing for removal must take place and a decision rendered within ninety (90) calendar days after receipt of the above-mentioned written notice unless both the City Commission, by majority vote of Commissioners eligible to vote on the matter, and the accused agree to extend the time. In order for the City Commission to remove the accused official from office, the Commission must find that the preponderance of the substantial competent evidence presented at the hearing supports the charges which are the basis for the removal proceeding. If, after the final hearing, the City Commission is unable to support such a finding by an affirmative vote of at least two-thirds of the existing membership of the City Commission that is eligible to vote on the matter, any suspension of the accused shall terminate and the accused shall be reinstated to office for any unfinished portion of the official's term. During a hearing regarding suspension or removal, the accused shall have the right to present evidence and testimony and to cross examine witnesses.*

## **JUNE 11, 2019**

### **12. Sec. 2.03 Judge of Qualification, Forfeiture , and Election of Members.**

*The City Commission shall be the judge of the qualifications of its Members and of the grounds for forfeiture of office, subject to review by the courts. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production or evidence. The City Commission shall use the following procedure when forfeiture of office for one of its members is considered:*

- *The accused Commissioner shall not be entitled to participate in the deliberations or decision in relation to the Commissioner's suspension or removal.*
- *A Mayor or Commissioner may only be removed from office by an affirmative vote of at least three (3) members of the existing membership eligible to vote for such action.*
- *Written notice, approved by at least three (3) members of the existing membership of the City Commission that are eligible to vote on the matter, must be delivered to the accused Commissioner who shall have an opportunity to be heard and defend against the accusation.*
- *Subsequent to written notice being delivered to the accused, the Commission by an affirmative vote of no less than three (3) of the members eligible to vote for such action, shall have the authority to suspend a Commissioner pending the disposition of charges for removal.*
- *The accused Commissioner shall have the right to defend against the charges as provided in this Section.*

- *Where a suspension of a Commissioner occurs pursuant to this section of the Charter, the suspended official shall have the right to an immediate hearing upon demand to determine if there is sufficient evidence to establish the following two elements: (1) that probable cause exists to believe that the charges are true; and (2) that, if true, the charges would be grounds for removal. This hearing shall be held and the matter decided by the City Commission. The rules of procedure shall be the same as those which apply to the hearing for removal.*
- *If the City Commission does not find by an affirmative vote of at least three (3) of the existing members of the Commission that are eligible to vote on the matter that the evidence produced at the hearing is sufficient to establish the aforementioned two elements, the suspension shall terminate immediately and the official shall be reinstated pending a final hearing on removal.*
- *A final hearing for removal must take place and a decision rendered within ninety (90) calendar days after receipt of the above-mentioned written notice unless both the City Commission, by majority vote of Commissioners eligible to vote on the matter, and the accused agree to extend the time.*
- *In order for the City Commission to remove the accused official from office, the Commission must find that the preponderance of the substantial competent evidence presented at the hearing supports the charges which are the basis for the removal proceeding.*
- *If, after the final hearing, the City Commission is unable to support such a finding by an affirmative vote of at least three (3) of the existing membership of the City Commission that is eligible to vote on the matter, any suspension of the accused shall terminate and the accused shall be reinstated to office for any unfinished portion of the official's term.*
- *During a hearing regarding suspension or removal, the accused shall have the right to present evidence and testimony and to cross examine witnesses.*

The election canvassing board, as established under Section 3.04(e), shall be the judge of the election of the members of the City Commission, subject to review by the courts.

Alternative Option – Unless otherwise provided by law, the City Commission shall be the sole judge of the election and qualification of its members and the grounds for forfeiture of their office. For such purposes, the City Commission shall have the power to subpoena witnesses and require the production of evidence; but the decision of the Commission in any such case shall be subject to review by the courts.

The City Commission shall declare that a Mayor or Commissioner has forfeited their Office through the following procedure:

- The City Commission shall adopt by affirmative vote of three (3) of its members a preliminary resolution specifically setting forth the reason(s) for forfeiture. Such preliminary resolution shall provide for the time, place, and date of a public hearing to be held to consider a final resolution of forfeiture.

- The public hearing shall be scheduled for a date at least seven (7) days, but no more than thirty (30) days, after the adoption of the preliminary resolution. Prior to the adoption of a final resolution of forfeiture, the Commissioner who is the subject of the preliminary resolution shall be afforded the opportunity, at such public hearing, to respond to the reason(s) for forfeiture stated in the preliminary resolution. An affirmative vote of three (3) members of the Commission shall be required for adoption of the final resolution of forfeiture.
- The availability of the aforesaid procedure shall not limit the right of any citizen, including the Commissioner, to seek a judicial determination that a Commissioner has forfeited the office.

13. Sec. 2.05. Compensation. *The base annual salary of City Commissioners shall be \_\_\_\_\_ per month. The base annual salary of the Mayor shall be \_\_\_\_\_ per month. The annual salaries of the Commissioners and Mayor shall increase or decrease annually based on the change in the Consumer Price Index (all Urban Consumers CPI), not to exceed five (5) percent of the annual salary. All CPI increases or decreases will be effective October of each year. The percentage of change will be based on the CPI change from April to April. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.*

14. Sec. 2.06. Functions of Mayor; Vice Mayor.

*The Mayor shall be a voting member of the Commission. At the first regular Commission meeting after certification of all elections, the Commission shall elect one of its members as Vice Mayor.*

**JUNE 25, 2019**

**Due to the fact that a physical quorum was not present at the meeting, no decisions were made. The following suggestions were identified for consideration at the next meeting.**

15. Revisit Sec. 2.06 regarding method of appointing members of advisory boards.

16. Suggestions for base salary in Sec. 2.05:

Commissioners - \$8,000    Mayor - \$10,000  
 Commissioners - \$7,500    Mayor - \$10,000  
 Commissioners - \$12,000    Mayor - \$15,000

17. Sec. 2.07. Vacancies; forfeiture of office; filling vacancies. (suggested language)

*(c) Filling vacancies. If a vacancy occurs in the seat of a Commissioner when there are one hundred twenty (120) days or less until the next regular municipal election, no appointment shall be made and that vacancy shall be filled for the remainder of the unexpired term at the next regular municipal election. Should a vacancy occur when there are more than one hundred twenty (120) days until the next regular municipal election, the remaining members of the Commission shall appoint, within thirty (30) days*

*of the date of the vacancy, any qualified resident to fill the vacancy until a successor is elected at the next regular municipal election.*

*If a vacancy is not filled by the Commission within thirty (30) days after the vacancy occurs as described above, a special election shall be held within ninety (90) days after such vacancy occurs or as soon thereafter as such election may be held. The person so elected shall serve the remaining unexpired term of office.*

18. Sec. 2.08. Procedure.

Meetings. The Commission shall meet regularly at least once every month at such time and public place as the Commission may prescribe by rule. Special and/or emergency meetings may be held upon the call *of the Mayor or any two (2) members* of the Commission. Special meetings require *forty-eight (48)* hours advance notice to each member of the City Commission and to the public.