



City of Winter Garden

CHARTER REVIEW COMMITTEE

Regular Meeting Minutes

June 24, 2019

A **REGULAR MEETING** of the Winter Garden Charter Review Committee (CRC) was called to order by CRC Chairperson Derek Blakeslee at 5:30 p.m. at 300 West Plant Street, Winter Garden, Florida.

ATTENDANCE/ROLL CALL:

BOARD MEMBERS – PRESENT

Steve Ambielli	Andy Davis
Doug Bartow	Christopher Lee
Derek Blakeslee	Ed McKinney
Larry Cappleman	Ron Mueller
Phil Cross	

OTHER ATTENDEES

Dan Langley – City Attorney
Drew Smith – Facilitator
Angee Grimmage – City Clerk
Venice Alexander – Recording Clerk

ABSENT: Millie Lord

1. Call to Order

The meeting was called to order and a quorum was determined.

2. Approval of Minutes

Motion by CRC Member Mueller to approve regular meeting minutes of June 10, 2019 as submitted. Seconded by CRC Member Cappleman. CRC Member Bartow clarified that his motion was to limit the public comment to three minutes per speaker. **Motion carried unanimously 9-0.**

3. Public Comment - There were none.

4. Article I – Incorporation; Form of Government; Powers

Facilitator Smith clarified how proceedings of this meeting would move forward. There were no noted objections and the following items were covered:

Sec. 1 - **Reaffirming the existing boundaries of the municipality** - *No noted changes.*

Sec. 2 - Form of government

There was discussion on the composition of the current city commission and when redistricting would become necessary as this item may come up again later in the charter.

Sec. 3 - **Powers of city; general** - *No noted changes.*

Sec. 4 - **Present ordinances continued in force** - *No noted changes.*

Sec. 5 - Sale of alcoholic beverages

CRC Member Bartow inquired as to how the sale of Cannabis products would be addressed. **CRC Chairperson Blakeslee** also inquired as to how the cannabis issue had been treated in the City's ordinances at this point. **City Attorney Langley** responded that there is a citywide prohibition on dispensaries. The legislature pre-empted all local regulation of cannabis and dispensaries with the limited exception that they allow cities to prohibit or ban them. He expressed that he is uncertain that the charter would be an appropriate place for addressing such a fast moving issue. He explained that there is not really the ability to regulate distance separation other than the State law requiring dispensaries be located a certain amount of distance away from schools.

Facilitator Smith indicated that alcohol and beverages are regulatory and not usually placed in a charter. Some concerns and implications it could have, making it subject to court challenge, are the zoning aspects. An example was given and he noted that it does not read well. He indicated how, if read strictly, it could lead to someone not being able to do a rezoning ordinance without having to first go through a referendum process. He explained how it could go the other way as well, which is probably the original intent of limiting the number of bars over the entire City, but is still problematic in its current state.

CRC Member Mueller felt this item could be handled by its complete removal and be addressed by ordinance where some flexibility could be allowed. **CRC Chairperson Blakeslee** shared some history on the related decisions and the original inclusion of this item in 1989. He explained some of the challenges at that time and noted that the original intent was to try and incorporate restaurants that could serve alcohol by meeting certain requirements.

There was further discussion on this item and its location in the charter. It was the **consensus** of the CRC to list this item for later discussion.

CRC Member McKinney inquired as to the impact this Section 5 item could possibly have on the hotel that is being built; noting that most of their revenue would not be derived from the sale of food. **Facilitator Smith** expressed that this is a good question because the exclusion is for restaurants selling more than 51 percent; a hotel having a standalone bar is technically an establishment selling intoxicating liquor. **CRC Chairperson Blakeslee** noted that he believes the hotel would be considered as one facility, making it a licensing nature recognized by the State of Florida; which would mean the City would not have to step in and try to regulate.

CRC Member Mueller voiced his concerns on this item being in the charter; noting its being there could potentially affect new businesses coming into the City. **Facilitator Smith** explained that this deals not with the issue of whether one can have a bar, but with where one can be located. There was further discussion on this item.

Secs. 6-10 – **Reserved** – *No noted changes.*

5. **Article II – The City Commission**

Sec. 11 - **Number, selection, term, compensation**

CRC Member Cappleman referred to an excerpt in Section 11 (5) stating that “*the mayor-commissioner and the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.*” He inquired as to how it is determined what is actual and necessary. There was discussion on this item being possibly established by city policy and then who determines the policy on reimbursements came into question. **City Clerk Grimmage** noted that staff would look into this issue and bring an answer back to the CRC. **CRC Member Cappleman** noted that some items such as health insurance and computers were added [*in the budget*] for the City Commission, but was not certain how this was submitted and approved. **City Attorney Langley** noted that the City Commission, as a body, would have to vote on approving certain classification types that would not already be permitted. He stated that an individual commissioner cannot make that decision and he referred to the budgeting process. There was discussion of a need for clarification in this language. **Facilitator Smith** suggested the addition of language such as “*the Mayor-commissioner and the commissioners shall, in accordance with city policy, receive their actual and necessary expenses...*”. There was further discussion on establishing better language on this issue.

CRC Member Mueller regarding Section 11 (1), stated that he would like to see the change in the term of office go to four (4) years versus the current three (3) years. He noted that this fits in the category of a lot of legislative offices and further explained his thoughts on this issue. He is also in favor of a two (2) term limit per office. **Facilitator Smith** added that when imposing term limits there is usually a stipulation requiring one (1) year off.

CRC Chairperson Blakeslee reminded the Committee that these types of discussion items would be placed on a discussion list for further review and then voted upon at a later date in an effort to keep the review moving forward.

Sec. 12 – **Qualifications**

CRC Chairperson Blakeslee shared that this item had been thoroughly covered by the last committee and he explained its purpose. *No noted changes.*

Sec. 13 - **Powers of city commission** - *No noted changes.*

Sec. 14 - **Prohibitions**

Facilitator Smith and **City Attorney Langley** addressing Section 14 (2), indicated that

this is a policy versus procedural issue. They shared that another municipality experienced mayor interference with its administration resulting in that official being removed from office. Also discussed were language changes, but no actual changes were noted.

Sec. 15 - **Forfeiture of office**

There was discussion on the meaning of moral turpitude being crimes of dishonesty. The CRC discussed felonies and misdemeanors that may not fall under the term moral turpitude. There was discussion that more information would be needed on felonies and it was noted that, if so chosen to use the word felony, it would be added to subsection (c) as opposed to replacing any language. City Attorney Langley was asked to get more information on felonies to further review this item.

City Attorney Langley noted that this would only affect someone during their term of office, not someone whose voting rights had been restored, looking to qualify to run for office.

Sec. 16 - **Judge of forfeiture**

CRC Member Cappleman noted that five (5) days is stated, but a week is required to advertise. There was discussion on the intent being that the person accused would have five (5) days with the City not having a time limit for when they schedule the hearing. **Facilitator Smith** explained that the five (5) days could be a short timeframe due to the defining of when something is considered delivered. He expressed the importance of allowing due process. **CRC Member Cappleman** requested that the attorneys review this for possible language modification; providing better clarification. **City Attorney Langley** noted that this could also raise questions regarding the Sunshine laws; noting that independent of each other, it states that the two (2) commissioners must make a charge. **Facilitator Smith** noted that he has not seen a charter go into this much detail on the process of forfeiture; he suggested simplifying the language.

Sec. 17 - **Vacancies in commission**

CRC Chairperson Blakeslee shared that he felt there should be at least nine (9) months when filling a vacancy as opposed to the current six (6) months. He addressed the special election process, its cost, and the little time left for the candidate to serve after that process. He expressed that it would be better to have them appoint someone. There was discussion on the issue of a tie and the methods of drawing lots and flipping a coin; with **Facilitator Smith** commenting that there should be some consistency. He noted that a situation could occur that could potentially create ambiguity. The CRC also discussed different scenarios; it was noted that in some instances they would have to keep voting to achieve an end result.

The CRC also briefly discussed a former way of filling a vacancy which was by governor appointment; noting that it was not an option that anyone wanted.

Sec. 18 - Induction of commissioners into office; meetings

There was discussion on Section 18 (3) regarding the twelve (12) hour notice and special meetings and Section 18 (4) emergency meetings. They discussed the notice being given to the commission and when the public would actually receive it. **Facilitator Smith** voiced that he thinks that this is a valid concern. **City Attorney Langley** noted that the City Attorney's recommend not holding a meeting that quickly if it is not an emergency. It was noted that 24 to 48 hours is good, but 48 to 72 hours for special meetings would be preferred. **Facilitator Smith** shared that many of the legislators in Tallahassee are beginning to call for at least one week's notice for all local government meetings. Discussion ensued on the proper required time for noticing.

CRC Chairperson Blakeslee requested that City Clerk Grimmage provide information from the last Charter Review on the thought that the committee may have had in changing this item to its current state. It was also noted that the review of other cities would be good regarding this item.

Sec. 19 - Legislative procedure

Facilitator Smith noted that the word "fewer" would fit better. **CRC Member Cappleman** mentioned that a one-word change would require a vote by the electorate. **Facilitator Smith** responded that these types of changes could be incorporated into one ballot question for non-substantive word choice and roll everything into that one question.

Sec. 20 - Adoption of ordinances; procedure; effective date

CRC Member Blakeslee inquired of Section 20 (2) and questioned if there would ever a come the time and place when "*noticed once in a newspaper of general circulation*" would no longer be used. **City Attorney Langley** noted that currently the Florida State Statutes on the adoption of ordinances was used in writing this section. He shared that this actually tracks that statute, but right now it does require a notice in the newspaper of general circulation. He also noted other postings such as those placed on the City website. There was discussion on the City following the State Statutes regarding postings. **Facilitator Smith** offered that in order to future proof this language they might use "*shall be advertised in accordance to state law.*" Discussion ensued on not using terms that could become antiquated or binding to the City. Also not using the term "on City's website" due to the potential unavailability of the site. There were no noted suggestions to change the remaining

subsections.

Sec. 21 - **Emergency measures**

CRC Chairperson Blakeslee addressed the issue of two-thirds (2/3) votes and whether there is the meaning of four (4) out of five (5) or three (3) out of five (5). There was discussion on setting the number of votes needed or use of the term majority votes. **City Attorney Langley** noted that this (2/3) comes from the State Statute on adopting emergency ordinances. **Facilitator Smith** inquired as to the two-thirds (2/3) being of the entire City Commission or for those available at the meeting; noting that it is not uncommon in the event of an emergency meeting for people to not be able to attend. Attendance by phone or video conference was discussed. There was discussion of the Attorney General opinions and further review of what constitutes an emergency action. It was the **consensus** of the CRC to review Section 21 for possible flexibility.

Sec. 22 - **Revision of ordinances**

CRC Member Cappleman addressed the language which states “revise, compile and codify the ordinance...”. He inquired if this could be done without a vote, without a notice, without a second hearing, which is all required in order to pass the ordinance. He asked what prevents this from being done. **Facilitator Smith** responded that it is state law, noting it would have to be followed regardless of what is stated in the charter. He agreed that is an awkward provision because of that word “revise”.

There was discussion on what this provision permits, its meaning, and the codification process. **City Attorney Langley** noted that the charter is to constrain the powers of the city and does not see the legality in requirement. **Facilitator Smith** noted that having this there may cause more problems. **City Attorney Langley** stated that if there is a struggle trying to explain it, then it probably should not be there. **City Clerk Grimmage** noted that this was one item that was untouched from the last Charter Review and probably goes back as far as 1975.

It was the **consensus** of the CRC to delete Section 22.

Sec. 23 - **Repeal of ordinances**

City Attorney Langley explained this item with an example and noted how a newly adopted ordinance to repeal an existing ordinance later gets appealed. This section says that the old ordinance does not unwind everything. It does not make that old repealed law come back to life again; that old law remains dead. A new ordinance to go back to the old law would be required. Although it does serve some purpose, he feels that it is unclear and may actually not be needed. There was discussion that

this item may have been one of the old ones. **City Clerk Grimmage** confirmed that this was one of the previous charter items that was untouched. It was the **consensus** of the CRC to delete Section 23.

Sec. 24 – Investigations

CRC Member Blakeslee inquired as to the idea behind this section noting the previous provisions that do not allow the City Commission the option to delve into different areas of the City and two cannot speak outside of a meeting about items.

Facilitator Smith gave an example of a current issue he experienced. **City Attorney Langley** referred back to the previous Section 14 (2) regarding the interference of administration and noted that this item is addressed. This provision gives the City Commission rights when investigating as a body to delve into the day to day operations of the City Manager to resolve and issue. **City Attorney Langley** gave an example of this provision and noted that this is a way to give them power to investigate a matter without violating the charter.

Sec. 25 - Commission districts; adjustment of districts

CRC Member Mueller addressed Section 25-3(b) and omitting the language “*Commencing on April 30, 2008*”.

CRC Member Cross sought clarification on the adjustments of districts not being determined by the charter, but by Section 25-2 which triggers it. He noted that you cannot go in and arbitrarily change from five (5) commissioners to seven (7); you must go through this charter change process. There was discussion on the process of changing the number of districts, the districting commission, the census as a trigger for districting, and the process of changing of the number of city commissioners.

CRC Member Cappleman inquired about the development of a minority district and CRC Chairperson Blakeslee explained some of the history of that issue. **City Attorney Langley** shared some information on the development of the single-member district and the legal history that challenged citywide commissioners. He also noted another legal issue that was thrown out regarding the drawing of district lines.

CRC Chairperson Blakeslee encouraged everyone to attend the districting meetings should they have an opportunity to experience how it is done.

6. General Discussion

City Clerk Grimmage offered a copy of the redline version of the last 2007 charter review for

their reference; the CRC indicated that it could be helpful.

CRC Chairperson Blakeslee noted that the CRC went through two large sections within a rather reasonable manner. He noted that the next subject for review is of the City Manager and there was discussion on the City Manager attending this portion of the review.

CRC Chairperson Blakeslee made the following suggestions for future review meetings: Next meeting review Article III and IV (City Manager and City Departments and Officers), then Article V and VI (Elections, Initiatives and Citizen Referendum), then Article VII and VIII (Charter Review and Fiscal Management). He surmised this taking approximately three more meetings and suggested that they would then get back and begin going through the items on the discussion list. **Facilitator Smith** agreed with CRC Chairperson Blakeslee’s breakdown of the review topics. He suggested the last meeting covering Charter Review and Fiscal Management may be fairly short subject matter and the final discussion items might need to be included in that meeting as well.

7. Confirm meeting schedule – July 15th

CRC Chairperson Blakeslee suggested cancellation of the July 8th meeting rather than rescheduling it to July 15. He then suggested meeting as scheduled on July 22, August 12, and August 26, to go through the rest of the items. They would then do a review for whether they should meet or reschedule September 9th. They would then set aside September 23rd for finalizing their work; possibly running the meeting later than 7:30 p.m., if necessary, to finish up.

CRC Chairperson Blakeslee suggested that the CRC is ready at the August 12th meeting to review Sections V through VIII in order to keep moving forward through the items.

Motion by CRC Member Mueller to cancel the July 15, 2019 Charter Review Committee meeting. Seconded by CRC Member Bartow and carried unanimously 9-0.

City Attorney Langley confirmed that the subject matter of the next meeting would be Article III and IV and requested that City Manager Bollhoefer be invited to attend.

8. Adjournment

The meeting adjourned at 7:10 p.m.

Attest

Approved

_____/s/_____
Angee Grimmage, City Clerk

_____/s/_____
Derek Blakeslee, CRC Chairperson