

**TUESDAY, NOVEMBER 29, 2022
CHARTER REVIEW COMMITTEE WORKSHOP – 5:00 P.M.**

Present: Jesse Nelson, Mayor
Brandon Aldridge, Commissioner
Pat Perno, Commissioner
Jamie Warrick, Commissioner
Vickie Gainer, City Manager
Chief Ricky Ramie, Sergeant at Arms
Kevin Obos, City Legal Counsel
George Hines Jr, Chairman - Charter Review Committee
Gerri Parker, Deputy Chair - Charter Review Committee
Linda Mishler, Charter Review Committee Member
Jim Frishkorn, Charter Review Committee Member

Apologies: Judy Tinder, Commissioner
Absent: Joanne Cox, Charter Review Committee Member

The Mayor called the Charter Review Committee Workshop to order at 5:00 P.M. and explained the process he would follow for this meeting. He will go through each question in turn and allow public commentary at each question. Voting on this will only happen in the new year after the Attorney has put the final questions together.

QUESTIONS:

Referendum Question 1: Mandating Periodic Charter Review

Shall the City's Charter be reviewed every five (5) years by a Committee appointed by the City Commission. If passed, the amendment will require the City Commission to appoint a Charter Review Committee every five (5) years by Resolution.

The Mayor asked each Commissioner what their view was on reviewing the Charter every 5 years. All agreed it was a good idea.

There were no comments from the public.

Referendum question 2: Adding Term Limits

Shall the term of office for any Commissioner not exceed a total of two four (4) year terms, not inclusive of any partial term, plus two four (4) year terms as Mayor. If passed, this amendment will create a term limit of two four (4) year terms for any Commissioner, not including partial terms, plus a term limit of two four (4) year terms as Mayor, not including any partial terms.

Commissioner Aldridge is not opposed to term limits but is concerned for a city of our size that we may run out of the pool of candidates to run the city (dependent on whether there is population growth).

Commissioner Warrick agreed, and feels it is important for the residents to vote on.

Mayor said the people he has spoken to have said they define term limits as when they vote the politician out then their term is up.

Commissioner Warrick said that he would be happier if more people voted.

Commissioner Perno echoed Commissioner Warrick that they should let the people decide. If this is what the committee thinks, and the people want to vote on it then put it out there.

Public commentary:

Mr. Scray – 1702 Missouri Ave – said he had held some impromptu sessions with the community, and they have spoken about the same issues. They spoke about a preference for overall terms being limited to two consecutive terms but could run again with a minimum of 2 years between terms.

- Commissioner Aldridge said he liked that idea, and that they should entertain it.
- Commissioner Warrick said his initial thoughts are to keep it the way it has been set out by the Committee.
 - Mayor responded to Commissioner Warrick if that is the case then they should just vote on all these recommendations now and hand them over the Attorney.
- Commissioner Perno said this idea addresses the talent pool issue.
- Commissioner Aldridge agreed.
- Ms. Parker – Rhett Place – loves this discussion. This was not brought up at the committee meeting, but it is a good idea.
- Mr. Hines – said that the discussion they had was to come up with term limits to eliminate complacency in local government. He feels the Committees plan for the terms they set will do that. With what the committee has recommended a person can serve 16 years on the Commission, and he feels anyone who does more than that is not doing the rest of the citizens any good.
 - Commissioner Aldridge agreed they all feel that frustration of complacency. Term limits at the state level look great, but at the local level it could be detrimental for the city.
- Attorney said this particular one did go back and forth in the Committee.
- Commissioner Perno asked which other city has term limits.
 - Attorney wasn't sure but thinks PCB does and it is 8years and they cannot serve again after that.
 - Mr. Scray said PCB has two four-year term limits in a lifetime.
- Attorney said they could leave it as is, or they could put the word "consecutive" back in there.
 - Commissioner Aldridge said if he were to vote on it, he would add the word "consecutive" back.
 - Commissioner Perno agreed to include "consecutive" back in.
 - Commissioner Warrick also likes the idea and asked how long a gap is suitable?
 - Mayor said that two years was suggested.
 - Commissioner Aldridge said that if they run again after two years, they wouldn't be able to run for their same seat again.
- Mr. Scray asked if there is any type of special election or out of cycle election how would that fit in?
 - Attorney said that it doesn't include in any partial terms.

Referendum Question 3: Fixing Compensation for the Mayor and Commissioners

Shall the City Charter be amended to remove the ability of the City Commission to set compensation for the Mayor and Commissioners by adopting an Ordinance approved by referendum and, in lieu thereof, establish Mayor and Commissioner compensation at a fixed amount in the Charter subject only to cost-of-living increases. If passed, this amendment shall fix the compensation for the Mayor at \$1,500.00 per month and the

compensation for each Commissioner at \$1,250.00 per month subject to cost-of-living adjustments consistent with any such adjustments provided to the employees of the City as approved in the annual budget.

Attorney explained the question and the idea is to bring this current to what the practice has actually been over the past few years rather than doing it by referendum every 5 years. That being the case if they wanted to visit it again in 5 years in conjunction with the review of the charter then they could.

Commissioner Perno agreed.

Commissioner Aldridge agreed.

Commissioner Warrick agreed.

No comments from the public.

Referendum Question 4: Requiring Background Checks for the City Manager and all Department Heads

Shall the City require level 2 background screenings for the City Manager and all City Department Heads. If passed, this amendment will require that the City conduct level 2 background screenings, including sex offender registry checks and criminal background checks, on the City Manager and all Department Heads prior to appointment of hiring. This amendment provides for certain disqualifying offenses.

Mayor said that it is something the city is already doing.

Attorney explained that it will be a level 2 NCIS background check.

Commissioner Perno suggested going through an Ordinance on an agenda item instead of having it as part of the charter.

- Attorney said that the ordinance can then just be amended by the Commission, but the Charter will be more difficult to change.
- Commissioner Aldridge said it is not a bad idea to do it by ordinance.
- Commissioner Warrick agreed it would be good to do it by ordinance.

Mayor asked Human Resources Director to come forward for questions.

Mayor asked The HR Director in regards the employee handbook; how would such an ordinance be accommodated?

- HR Director said it could be adopted as part of the HR policy, and like currently if changed it will need to come before the Commission again. If it is done by referendum, it may be more difficult to change. She feels the risk is too great to take an easier route. She could insert it in a policy, or it can be done by ordinance – which ever the Commission prefers.

Public comments:

Linda Mishler said the committee was very aware that it was current standard practice, and that it could be done by ordinance. But felt strongly it should be part of the charter.

Cory Langford – Louisiana Ave – said he thinks the implementation would be costly especially if it is just a requirement to be done. He then asked does it become a disqualifying parameter where someone who did

something wrong in their youth will it prevent them from being hired? Finally, do the citizens also have access to that background check information then too through public records? He feels there are a lot of questions relating to this that need to be reflected upon.

- The Mayor asked the Charter Review Committee Chair to speak to the reasoning behind this particular referendum.
- Mr. Hines explained that the concept came about due to previous administrations running into problems legally. They had a so-called policy that certain things were not supposed to be done, but the policy wasn't adhered to. If done by ordinance it still doesn't mean it will be adhered to. If it is put into the charter, then it is in stone. Regarding people that have a criminal history from their youth, there are some crimes that clear over time, but some stay with them forever, like rape or murder. All the committee members spoke with citizens over the 11 weeks about what their views were too.
- Attorney explained there were disqualifying offenses specifically listed as part of the charter.
- Mr. Hall – feels that as a voter going in there it needs to be very, very high level. He agrees with the HR director that it should be a personnel policy that comes before the Commission whenever there is a change requirement. So, if you are looking to eliminate some of these referendum questions, this one can probably be removed and put in as an ordinance or a policy.

Referendum Question 5: Providing a Penalty for Unexcused Absences by Members of the City Commission

Shall the City Charter be amended to provide for a penalty for unexcused absences by a member of the City Commission. If passed, this amendment shall cause any member of the City Commission to vacate office if absent from three consecutive regular Commission meetings unless the absence is excused by the City Commission.

Mayor asked the attorney to explain what an unexcused absence is.

Commission Perno asked if the Commission moves on absences anyway?

Attorney explained that an unexcused absence is when a Commissioner doesn't notify anyone of their absence before the meeting.

Commissioner Aldridge mentioned that in the past there was a Commissioner that never showed up and feels that they should either show up or vacate their seats.

- Commissioner Warrick agreed.

Commissioner Perno – Agreed if this is what the committee wants to put before the citizens to vote on then so be it, but are we saying they should vacate their office?

Attorney explained it is already in an ordinance and is simply being moved to the charter.

Commissioner Aldridge said it is easy for someone to just call or email that they are out of town or unwell and they can be excused.

Referendum Question 6: Approving Charter Updates Assigning Duties in the Absence of the Mayor or City Manager

Shall the City Charter be amended to provide for the appointment of a Mayor Pro Tem to serve in the Mayor's absence; to allow the City Manager to serve as a Department Head where no Deputy Department Head is available; and to allow the City Commission to appoint an interim City Manager when no Deputy City Manager is available. If passed, this amendment clarifies and provides for the appointment by the City Commission of a Mayor Pro Tem annually in May to serve in the Mayor's absence and that no Commissioner may serve more than once during a four (4) year term. This amendment also clarifies and provides for the City Commission to appoint an interim City Manager in the absence of a Deputy City Manager. Finally, this amendment allows the City Manager to serve as a Department Head or appoint a Deputy Department Head in the event of the vacancy of a Department Head with the approval of the City Commission.

Attorney said this is one they may want to break into two questions, one to deal with the Mayor and one to deal with the City Manager.

Commissioner Warrick feels it needs to be split up as it is talking about two separate roles.

Mayor asked if the City Manager aspect of it is not put in an ordinance will the Commission still appoint someone when needed?

- Attorney confirmed the Commission will appoint an interim deputy.

Commissioner Warrick agreed it needs to be split up because there is a lot of stuff in there and we're talking about two different things. How do you vote on it if you agree on one of them and not the other?

Commissioner Perno said they already have a revolving Mayor Pro Tem, why don't they just have a revolving deputy City Manager from the department heads? He would like to make as few referendum questions as possible. He said he feels that if they make two questions out of this one then the previous one would be better at the ordinance level.

- Attorney advised that the deputy City Manager will be appointed at the management level, and if that person is away unexpectedly then the Commission steps in and puts an interim in place. So, a rotation may not work because you want the most experienced person in there.
- Commissioner Perno asked if there is a deputy City Manager currently.
- City Manager said she does exactly what the Commission does and has a revolving deputy City Manager when she is gone.

Commissioner Perno asked could they keep this as one question and remove the City Manager part of the question to be managed the way it is business as usual? Or remove question 5 and make two questions out of 6?

- Attorney said they could split question 6 into two separate questions.
- Mayor suggested that the Staff one could be more of a personnel issue and not a charter issue.
- Attorney explained that in the absence of the City Manager and a deputy City Manager it falls to the Commission to fill the position, and this referendum question clarifies that.
- Commissioner Warrick asked what happens if this doesn't pass.
- Mayor and Attorney explained the Commission currently appoints someone.
- Mayor said that looking at what just happened previously is that the Commission appointed an interim City Manager.

Commissioner Perno asked if we pay the county for every question we have on the ballot?

- Attorney and City Manager confirmed that we just pay for the election as long as it is part of a regular election.

Public commentary:

Mr. Scray said that thinking as a common voter that doesn't attend city meetings he would vote no because he feels it is too convoluted and should be split up. However also if it is something we are already doing it could just be done by ordinance and taken off the ballot.

Jodi Moore – Amhurst Place – Said it is not something she will vote on, and it didn't come up at the Charter Committee meeting but feels the city of this size should have an assistant City Manager to step in if needed, or a City Clerk that is separate to the City Manager, just for checks and balances, and that it will also be helpful for Mrs. Gainer. Example Mrs. Gainer stepped in when needed. She feels there should be a second in command whether it be under Mrs. Gainer or not. She would vote no on this because she doesn't like any of it.

Attorney advised when they break it up into two separate questions it will be much clearer. What we currently have is that the Commission currently appoints an interim in the absence of the City Manager, what the charter says is that if Mrs. Gainer has already appointed a deputy City Manager, then in the absence of a deputy City Manager, then the Commission will step in and appoint an interim. The charter will work on the assumption that there is already a deputy City Manager, then if the City Manager is away then the deputy City Manager will step in.

Mayor called Mrs. Rushing forward to explain her role. Mrs. Rushing explained her role briefly stating that her title is Executive Administrative Coordinator. The City Manager said that Mrs. Rushing also serves as the Deputy City Clerk where she does all the minutes and posting etc. Commissioner Warrick said then basically all her duties are that of a City Clerk. The Mayor indicated yes, even though that is not the title that we use it is the function that she carries. When he looked up what her job function was and compared it to that of a City Clerk from other municipalities throughout the state, they were the same job function. The only difference is she does not record the votes at the Commission meetings. So essentially, we have a City Clerk but we don't have an assistant City Manager, and he thinks that should be left up to the City Manager as to who will work with her because if the Commission appoints an assistant City Manager and the chemistry isn't there it could be bad for the city. However, we don't actually have the budget for that right now.

Commissioner Warrick said that perhaps as the city grows bigger, we could revisit it, but he didn't think we were quite there yet.

The Mayor added that it is more about the size of the budget than the size of the city.

Mr. Hall asked when is the right time to have a City Clerk? His concern goes back to discussions where the city lost so much recently with the embezzlement, and he knows there are now controls in place. Typically, the City Clerk reports to and is hired or fired by the Commission and there is a separation of duties. This has nothing to do with position but rather structure. He loves the City Manager and has nothing against her. He hears that we don't have the budget, but we have somebody already doing the position. If you look at the cost of \$100k and compare that to how much we lost, then divide that out and how many years it will cost to recoup it. If you look at Lynn Haven City it is the fastest growing city in Bay County and Northwest Florida. It is time that we look forward to the future

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as we revisit this charter. It is nothing to do with the current administration or the current Commission. It is for the future. He said he thinks it is something that needs to be looked at now.

- Mayor explained that the City Clerk within the charter is the City Manager. The Treasurer in the charter is the Mayor. City Manager / Clerk and Mayor/Treasurer is how the charter reads. Mayor said Mr. Hall's point is noted.

Mr. Scray said that as they were talking about all the duties that CJ does, he had he pulled up a job posting from Fort Walton Beach from 2020 for a City Clerk, and he has a few questions about the duties of the City Clerk. He asked the Mayor if he is saying the City Clerk is the City Manager or the duties that CJ is fulfilling.

- The Mayor said that technically in the Charter the City Clerk is labelled as the City Manager and the City Manager can assign those duties to someone else.
- Mr. Scray said that since we are about to put so many things to ballot, now would be a good time to think about fixing that because when he read through the job description it is exactly what Mrs. Rushing does. Who does Mrs. Rushing report to? The Mayor said the City Manager. Mr. Scray said on the job description it says the City Clerk should report to the council.
- The Mayor said that essentially the City Clerk / City Manager is accountable and supervised by the city Commission. Mr. Scray says the job posting speaks about how they work in conjunction with the City Manager but directly report separately to the council, and the City Clerk manages the City Clerk's budget which is separate from the City Manager. It is a separation of duties in most other cities.

Mr. Scray would like it to be added as a referendum question for the citizens to vote on to be added to the charter and that Mrs. Rushing should become the official City Clerk who reports directly to the Commission with her own separate budget and working in conjunction with the City Manager. Now is the chance to ask the citizens.

Commissioner Warrick explained that it was something that he had mentioned before, and in his research the City Clerks he spoke to would rather be under the direction of the Commission and not the City Manager, because of the checks and balances. If the City Manager does something unethical the City Clerk is likely to go to the Commission if they report to the Commission rather than the City Manager. He thinks it would be a better balance having the City Clerk report directly to the Commission in terms of checks and balances and legal and ethical activities.

Mayor – his concern is that the City Clerk may not take direction from the City Manager. And then both those positions will be reporting to the Commission.

Commissioner Perno – even if she was under the city Commission it will be the Commission directive that she works under the direction of the City Manager. The Mayor said that if the Commission is hiring her, she may think she doesn't have to do what the City Manager says because she can't fire her.

Attorney explained that the City Clerk is a charter officer and typically there will be some people working under the City Clerk and those staff will report to the City Manager. His experience has been that is where the tension normally is where the City Manager holds authority over the City Clerk Staff.

Commissioner Warrick – if the City Clerk falls under the Commission and there is a problem between them it is either the City Clerk or the City Manager and it is up to the Commission to figure it out and whichever they think it is they need to hire another person to bridge that gap. Also, if they fall under the City Manager then there is the

potential in the future for a rogue administration. The Mayor said that if there is a rogue City Manager in the future then they will just give the City Clerk a piece of the pie and then they are not going to say anything.

Mayor moved on to the next question.

Referendum Question 7: Clarifying Election Procedures and Canvass of Returns

Shall the City Charter be amended to allow for the unopposed election of a candidate for office when another candidate or candidates withdraw or are removed from the ballot following the end of the qualifying period leaving only one candidate remaining on the ballot; and shall the results of the canvass of returns be reported to the City Commission at the next regularly scheduled Commission meeting. If passed, this amendment clarifies that when only one candidate remains on the ballot due to any reason, said candidate shall be deemed elected unopposed; and further amends the City Charter to provide for the results of the election to be reported to the City Commission at the next regularly scheduled Commission meeting as opposed to the day following the election.

Attorney explained the referendum question number 7 saying that it just brings the election procedure up to date with what the current practices are.

Mr. Scray said one concern is to do with when someone is dropped after the qualifying period before the election, e.g. if the candidate filing for seat 2 (Commissioner Perno) could no longer run for some reason, why won't we offer a limited opening period for someone else. The Attorney said because the city doesn't handle its own election. Mr. Scray asked if we could ask the Supervisor of Elections to do it that way. Attorney said the supervisor of elections doesn't offer that option.

Referendum Question 8: Approving Miscellaneous Charter Updates Correcting Formatting and Grammar, Combining Duties of the City Attorney into one Section of the Charter and Removing Obsolete Language and Offices

Shall the City Charter be amended to update matters relating to formatting and grammar, deleting obsolete language and terminology, and combing the duties of the City Attorney into one Section of the Charter, and other amendments all as specifically set forth in Ordinance XXXX unanimously adopted by the City Commission on [insert date].

Attorney explained it is just the grammatical clean up.

No public comments.

General discussion:

Commissioner Warrick asked when we will go over this again.

Attorney said it will be put in ordinance form and be heard at the first meeting in January for the first reading and the next meeting as the second reading.

Commissioner Perno suggested it shouldn't be put before the public in separate questions but combined questions in bullet points. Eight separate questions are going to be a lot for the voters. Mark Anderson would probably say the same thing.

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- Commissioner Warrick feels that we need to do it this way because it is so long since the last one.
- Mayor asked how many questions are recommended?
- Commissioner Perno answered only about 2-3.
- Commissioner Warrick said if this passes and then it is done every 5 years it will be less next time.
- Mayor asked the attorney when does this need to be voted on to get into an ordinance? Attorney said early February 2023.
- Mayor suggested prior to the pre-Commission meeting the Commission could choose their top 3-4 priorities and send to the City Manager so that could tabulate which ones get the most Commissioner votes and put that forward as the referendum questions.
- Commissioner Perno said he doesn't want to exclude any of the questions, it is just the format he wants made easier to understand.
- Attorney said that unfortunately at the last one they bundled all of them together which made it all or nothing and they didn't want to accept all of them, so none were accepted. So if you bundle some together and one of them is not acceptable then you lose them all.
- Attorney said there were some that could be combined for example question 8, 1, and 5. Term limits for example should probably be a standalone item.
- The Mayor clarified that Commissioner Perno wanted to have all the points rearranged into fewer questions rather than eliminating some of the questions. Commissioner Perno confirmed yes.
- Commissioner Perno feels the voters will become overwhelmed by the time they get to question 5.
- The attorney said that the only new things are the term limits and the background checks, everything else is just essentially cleaning up the language.
- Commissioner Warrick feels whittling it down sounds logical, but this time is a long one because it was so long since it has been reviewed.
- Mayor asked the attorney to work on combining the questions appropriately prior to the next Commission meeting.
- Attorney agreed he will write up the ordinance for them to discuss at the December meeting. That discussion will allow him to prep the official ordinance for January.

Adjourned at 6:14 P.M.