



# City of North Port

4970 CITY HALL BLVD  
NORTH PORT, FL 34286

## Meeting Minutes - Final City Commission Special Meeting

### *CITY COMMISSIONERS*

*Vanessa Carusone, Mayor*  
*Linda M. Yates, Vice-Mayor*  
*Christopher B. Hanks, Commissioner*  
*Jill Luke, Commissioner*  
*Debbie McDowell, Commissioner*

### *APPOINTED OFFICIALS*

*Peter Lear, City Manager*  
*Amber L. Slayton, City Attorney*  
*Patsy Adkins, City Clerk*  
*Kathryn Peto, Deputy City Clerk*

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Monday, March 19, 2018

9:00 AM

CITY COMMISSION CHAMBERS

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### Review of Charter

## **MINUTES APPROVED AT THE 05-08-2018 MEETING.**

### **CALL TO ORDER/ROLL CALL**

The North Port City Commission Special Meeting was called to order at 9:02 a.m. in City Chambers by Mayor Carusone.

Present: Mayor Carusone; Vice-Mayor Yates; Commissioners, Luke and McDowell, City Manager Lear; City Attorney Slayton; City Clerk Adkins; Deputy City Clerk Peto; Assistant Police Chief Pelfrey.

Absent: Commissioner Hanks

Charter Review Advisory Board Member: Justin Willis.

Guest: Connie Brunni.

**A moment of silence was observed after the Pledge of Allegiance was led by the Commission.**

### **1. APPROVAL OF AGENDA – COMMISSION**

*A motion was made by Commissioner McDowell, seconded by Commissioner Luke, to approve the Agenda as presented. The motion carried by the following vote, with Commissioner Hanks absent:*

**Yes:** 4 - Mayor Carusone, Vice-Mayor Yates, Commissioner McDowell and Commissioner Luke

### **2. PUBLIC COMMENT:**

There was no public comment.

### **3. DISCUSSION ITEM:**

After brief discussion the Commission clarified they will be referring to and working from the Revised Working Document. 2018 03 09. Redlined version during the course of the meeting.

#### **A. 18-147**

Discussion and possible action regarding proposed changes to the City Charter

ARTICLE IX CITY MANAGER

SECTION 9.03 REMOVAL

SECTION 9.05 POWERS AND DUTIES

Discussion ensued: (1) it was noted the working document from July was submitted by a citizen, Connie Brunni, and was a compilation of all comments from the Charter Review Board and the Commissioner's notes; (2) the description of the City Manager as the Chief Administrator Officer is listed under Section 9.05, Powers and Duties on line 640; (3) it was suggested to keep line 625 to 672 regarding removal for good cause by majority vote that was voted in 2006; (4) line 645 is new language that provides the City Manager does not supervise the City Attorney's and City Clerk's departments; (5) it was suggested to require the City Manager position be filled within one year of vacancy be addressed in an Ordinance and not in the Charter; (6) line 644 and 645 were explained that the City Clerk, Deputy City Clerk and City Attorney are Charter Officers with their own departments and employees; (7) it was opined that the City Manager should be the Supervisor of all departments; (8) Charter Officers are responsible for their own departments and they answer to the Commission; (9) it was noted that having the City Manager supervise all employees puts the Charter Officers in a position they are not comfortable with by telling another Charter Officer what to do or how to do something, and that all Charter Officers are accountable to the Commission; (10) the City Manager oversees the budget and Charter Officers are responsible for hiring and dismissing their own employees; (11) the Police Chief is not a Charter Officer because the Police provide service, the City Attorney and City Clerk offices are administrative in nature and that is why they report to the Commission; (12) concern was expressed that it be made clear that employees of Charter Officers address complaints following the same process as the City Manager's office and not directly to the Commission; (13) the current personnel policies are through the Human Resources Department and they answer to the City Manager, the other Charter Officers do not have their own Human Resources; (14) Charter Officers do not control their own budgets and do not have the authority to adjust pay for employees; (15) the City Clerk and the City Attorney noted they are satisfied with the current outline working with the City Manager; (16) it was noted that the language on lines 644 and 645 only provide for supervision and proprietary functions and that Section 9.05(b) addresses personnel matters; (17) it was suggested to narrow the responsibility of the Charter Officers to only apply to the personnel process; (18) based on the proposed change, employee issues with the City Clerk or City Attorney would go to the Commission; (19) based on the proposed change, Human Resources would bring employees concerns to the Commission; (20) the proposed change would give the Charter Officers the ability to hire and fire without consideration to the impact to the City as a whole; (21) it was noted that the proposed change could result in Human Resources responding to three Directors for three different departments; (22) concern was expressed that the City Clerk would still want to utilize Human Resources; (23) the Charter already provides for the City Attorney to employ or remove employees; (24) it was suggested to delete the underlined portion in Section 9.05(a) and keep the proposed language Section 9.05(b).

***There was a consensus that lines 644 to 652 to remove the additional language except the City Attorney's and City Clerk's department keeping the rest as proposed.***

ARTICLE X CITY CLERK

SECTION 10.01 APPOINTMENT AND QUALIFICATIONS

Discussion continued: (1) concern was expressed that line 693 addresses appointing the City Clerk but fails to mention the Deputy City Clerk as stated in the current Charter; (2) the blank Article 12 titled Deputy Charter Officers will be discussed in detail; (3) the City Clerk section is to mirror the City Manager section; (4) it was suggested the language starting on line 698 could be addressed in an employment contract; (5) the language on line 698 was requested due to a past experience regarding a Commissioner that moved out of their district because of an emergency; (6) Section 2.05 on line 232 the Commission omitted the extension, changing the language to "shall have 12 months to re-establish residency" and omitted all six-month language; (7) it was suggested the Charter Officers residency status during an emergency may stay as proposed are can be changed to 12-months to allow flexibility; (8) a suggestion was made to change the language for the Charter Officers to reflect the same as the Commission as stated on line 232; (9) in Section 2.05 the Commissioners are required to relocate to their respective City Districts, and other sections require Charter Officers to relocate within Sarasota County; (10) the City Manager section requiring residency location will need to be updated; (11) it was suggested to use the same time-line for Commissioner's and Charter Officers; (12) concern was expressed that "declared emergency" without resulting in an emergency could allow someone to move outside of the community for one-year; (13) it was noted that the Charter provides for a 12-month relocation for Commissioner's and Charter Officer's may relocate for six-months with a one-time six-month extension making both sections equal in time and that a change may not be necessary; (14) it was suggested to remove the reference to Sarasota County on lines 698, 705, 611 and 619.

***There was a consensus to remove the words "Sarasota County" on lines 698, 705, 611, 619.***

SECTION 10.01(a) continued.

Discussion continued: (1) it was suggested additional language be added to line 697, 610 and 778 providing "must maintain residency within the City, excepting (a)".

***There was a consensus to add on lines 697, 610 and 778: "must maintain residency while in position, except for (a)"***

SECTION 10.01(a) continued.

Discussion continued: (1) it was suggested to change "emergency or loss" to "emergency with loss" on line 699; (2) it was noted there could be an emergency and not a declared emergency; (3) losses covered by insurance differ from losses handled by FEMA; (4) it was noted there may be loss of residence or loss of residence use; (5) FEMA has a percentage threshold for loss of use.

Recess: 10:43 a.m. to 12:16 p.m.

Discussion continued: (1) it was clarified that FEMA does not have a defined percentage for loss of use and loss is based on condition of the home; (2) housing availability will be different for a single loss versus a catastrophe; (3) it was suggested to reword "emergency and loss of residence due to emergency circumstances" on line 698.

***There was a consensus to reword line 698 to "emergency and loss of residence due***

***to emergency circumstances".***

SECTION 10.01(a) continued.

Discussion continued: (1) it was clarified an emergency would be declared by the City; (2) it was suggested to not limit who can declare an emergency; (3) it was suggested to add the word "City" before "declared on line 698.

***There was a consensus to add "City of North Port" before the word "declared" on line 698.***

***There was a consensus for the City Attorney to review all Charter Officers and make this clause for declared emergency loss equal among the three.***

ARTICLE X CITY CLERK

SECTION 10.05 POWERS AND DUTIES

Discussion continued: (1) residency does not have to be specified as a cause for removal of a Charter Officer, removal may be by a Commission majority vote; (2) line 731 does not need to be removed as the Deputy City Clerk is responsible for supervising the department; (3) it was suggested line 734 add a reference to the personnel policy; (4) it was suggested adding an article for the Deputy City Clerk following the City Clerk; (5) Article XII was inserted to discuss Deputy Charter Officers; (6) the Deputy City Clerk position has been in the charter for decades and recently an employment contract was established; (7) it was suggested that the Assistant City Attorney and the Assistant City Manager be Charter Officers, that in the event of an emergency then the deputies would be able to step into those positions without loss in services; (8) a Deputy is deemed qualified to step into a Charter position; (9) concern was expressed that the Deputy Clerk does not need to be a Charter Officer and that all three positions should be Assistant; (10) any changes to the Deputy City Clerk position would take effect at vacancy because of the current contract; (11) the Commission can have discussions with the Deputy City Clerk as a Charter Officer; (12) a Deputy can act in an interim capacity and may be appointed the higher position by the Commission; (13) a previous Assistant City Manager did not want to assume the position of City Manager; (14) the job description for the Assistant(s) states they will fill in for the City Manager or City Attorney, but they do not have contracts; (15) Sarasota County has a Deputy and assistants; (16) a Deputy City Attorney is usually in larger offices to serve in a number two position, the benefit is that they would be directly managed by the Commission; (17) a suggestion was made to have a Deputy in the City Manager's Office but not for the City Attorney; (18) it was suggested to appoint a Deputy City Attorney once the population reaches 100,000; (19) concerns were expressed that a Charter Officer will cost more than an assistant and that the City cannot wait until the election to have an Assistant City Manager; (20) it was suggested to appoint a Deputy City Manager once the population reaches 100,000; (21) it was reiterated that if the position was changed to Assistant, the current Deputy City Clerk may be grandfathered in as the contract is not renewable and remains in effect until terminated; (22) concern was expressed to not wait on population size to have a Deputy City Manager; (23) it was noted that a City Attorney has the resources to outsource, the City Manager does not; (24) the City Clerk selected her top three candidates for Deputy City Clerk, and then the Commission chose their top choice; (25) it was explained the Commission cannot participate in selecting an Assistant City Manager until the Charter is changed; (26) concern was expressed that if an Assistant City Manager is hired and the voters allow for a Deputy City Manager, it doesn't mean the Assistant would automatically be the Deputy, and you may have two people where only one is needed; (27) it was suggested to leave the Deputy City Clerk in the Charter and not address Deputies for the City Manager and City Attorney at this time; (28) it was noted that in case of an emergency an interim can be appointed as was done with the Fire Chief and

Police Chief in the past; (29) it was suggested to create a new Article XI, adding the Deputy City Clerk after the City Clerk.

***There was a consensus to add a Deputy City Clerk Article.***

Discussion continued: (1) it was suggested that the section for the Deputy City Clerk: [a] should be similar to the City Clerk section; [b] outline the different duties; [c] review the existing contract for what should be included in the Charter; [d] add reference to carry out the duties of the City Clerk in the event of a vacancy.

***There was a consensus to add that the Deputy City Clerk will carry out the duties of the City Clerk in the event of a vacancy.***

#### ARTICLE X CITY CLERK

##### SECTION 10.02 COMPENSATION

Discussion continued: (1) a contract has to provide for an offer and an acceptance; (2) it was clarified that when you have a contract addressing what is not regulated in the charter there is a need to cover certain provisions such as termination, considerations and severance; (3) a contract cannot solely address compensation; (4) when there is a contract that person is no longer an at-will employee; (5) it was noted the Charter doesn't specify employed by contract; (6) it was explained that someone can be appointed but they also have to accept the appointment; (7) it was suggested to leave this portion of the Charter as is; (8) a suggestion was made to add "by majority vote and contract" on line 712; (9) it was suggested that Staff review appropriate language to add that all Charter Officers should be hired by Contract and include the sentence about compensation.

***There was a consensus that all Charter Officers should be hired by contract and the City Attorney will review language within each to reflect that, and the Compensation sentence.***

#### ARTICLE XI CITY ATTORNEY

##### SECTION 11.01 APPOINTMENT AND QUALIFICATIONS

##### SECTION 11.05 POWERS AND DUTIES

Discussion continued: (1) it was noted there was a consensus to make all Charter Officers the same regarding the reference to Sarasota County; (2) the current City Attorney is not required to be a resident, but residency will be required for a future City Attorney; (3) the changes in the Charter will not conflict with contracts; (4) it was explained outside counsel would need to be consulted to advise specifics of the City Attorney's contract and that she can advise regarding matters of the other Charter Officers contracts pursuant to the Code of Conduct established by the Florida Bar; (5) it was noted the double "and" may remain on line 808; (6) it was suggested that personnel policy be included on line 813 to be consistent; (7) the City Attorney cannot advise the Board and someone proceeding before the Board; (8) it was suggested that line 833 be clarified that the City Attorney can be the legal advisor for Staff; (9) it was suggested to remove line 833 because: [a] it is clear the City Attorney is legal counsel for Staff; [b] the City Attorney is also able to prosecute and defend for the City; [c] to not tie the City Attorney to the Code Enforcement process; (10) it was suggested to leave line 833 in because the original Charter provided that the City Attorney shall act as a Prosecuting Attorney for the Code Enforcement Board; (11) the Charter provides for an Attorney to be present for the Code Enforcement proceedings; (12) the Code Enforcement Officers present their own cases and have only asked for legal counsel twice in the past two years and there has not been a need to prosecute cases in Code Enforcement; (13) it was noted that an Attorney's presence has only been needed three times for 20 hearings with Code Enforcement; (14) the old language stated "he shall act as Prosecuting Attorney before the Code Enforcement Board"; (15) Chapter 162 of the Florida State

Statute provides that a Code Enforcement Hearing Officer can be created; (16) it was clarified that if line 833 were removed, the City Attorney's Office would still provide legal counsel to Staff.

***There was a consensus to remove line 833.***

#### ARTICLE XII SUITS AGAINST THE CITY OR CITY OFFICIAL(2)

Discussion continued: (1) line 846 can be removed because previous direction was given to create a Section XI for the Deputy City Clerk; (2) Charter Officers are more administrative and not service driven, that is why the Chief of Police and the other department heads are not Charter Officers; (3) it was suggested line 852 be reworded to the same language as used by the legislature; (4) it was suggested item (b) starting on line 852 be reviewed, and to include that it will cover Commissioners; (5) if a Commissioner or Charter Officers violates ethics law it would be an administrative complaint to the ethics commission or other applicable commission; (6) the City has insurance that covers suits and that does not have to be included in the Charter; (7) following an inquiry, broader is always better for the Charter and allows for flexibility; (8) it was suggested that section (a) on line 849 is not needed in the Charter because the City is bound, covered and protected by Florida State Statute (FSS) 768; (9) FSS 768.286(a) has a notice requirement and timeline that does not have to be referenced in the new Charter; (10) it was clarified that employees and officials acting outside of their duties are not indemnified; (11) it was suggested to have the City Attorney to look at the Article Suits Against the City to rewrite so that it covers all legal actions as discussed, and covers all Officers on an individual basis, as well as City suits overall.

Recess: 1:57 p.m. - 2:12 p.m.

#### **4. PUBLIC COMMENT:**

Public Comment was held 2:12 p.m. - 2:15 p.m.

Connie Brunni: change 1.02B Bonds to state "or" revenue and compiled changes for Charter Review Advisory Board.

#### **3. DISCUSSION ITEM:**

##### **A. [18-147](#)**

Discussion and possible action regarding proposed changes to the City Charter

#### ARTICLE I CREATION, POWERS, AND CONSTRUCTION SECTION 1.02(a) POWERS

Discussion continued: (1) City documents typically do not refer to the Charter and the revised Charter will be codified with Municode; (2) the prior Charter will be in the Clerk's records for reference; (3) following an inquiry, a Charter Officer's contract cannot be amended without mutual agreement to incorporate changes in the Charter, and items from the Charter incorporated by reference into the contract would be the language at the time of the contract; (4) it was suggested to take out "shall" or "may" from line 18 and not have both; (5) it was suggested to remove "shall and" on line 18.

***There was a consensus to remove "shall and" on line 18.***

#### ARTICLE I CREATION, POWERS, AND CONSTRUCTION SECTION 1.02(b) POWERS

Discussion continued: (1) it was suggested to add "or revenue" after "general obligation" on line 25; (2) it was clarified there was a prior consensus to support the change and that it was omitted in error.

***There was a consensus to add "or revenue" after "general obligation" on line 25.***

SECTION 1.02(b) continued.

Discussion continued: (1) it was suggested to add "on the issuance of those bonds" after "City voting" on line 26.

***There was a consensus to add after "City voting", "on the issuance of those bonds" on line 26.***

SECTION 1.02(b) continued.

Discussion continued: (1) it was noted that special elections for bonds have happened; (2) special elections are an option and can piggyback other elections except primary elections; (3) it was suggested Staff clarify bond issues can be included on a primary election and if so, add to line 26; (4) it was noted Special Elections have less of a turn out.

***There was a consensus to direct Staff to clarify if primary election can be included on line 26.***

## ARTICLE II GOVERNANCE

### SECTION 2.02(d) DISTRICTING AND RE-DISTRICTING PLANS

Discussion continued: (1) it was clarified the total population means the total City population; (2) population information is from: [a] the Beber count, which is done annually; [b] the census, every ten years; [c] EAR process, every three to five years; (3) a suggestion was made that the Charter state how the population is determined; (4) it was suggested the Charter state how often it will review district populations; (5) redistricting is determined by consultants and staff at the time of census, and that the census breaks down the count per each district based on voting blocs; (6) it was suggested lines 80 and 81 be changed from ten months, 300 days to nine months, 275 days; (7) census results come out in August and 300 days as required by Charter would go to June; (8) redistricting may disqualify a Commissioner from running for re-election due to the in-district one-year residency requirement; (9) it was suggested to have two Commissioners at-large; (10) it was suggested districts can be redrawn as: [a] five districts plus two at-large; [b] three districts plus two at-large districts; (11) concern was expressed about changing the make-up of the Commission in the current Charter; (12) it was noted that the 300-day requirement on line 81 was voted by the voters on the original referendum; (13) a suggestion was made to discuss Section 2.02(d) further when there is a full Commission; (14) it was suggested to have Staff review the time-frame and report to the Commission if Section 2.02(d) could be accomplished in the month of May following a census; (15) it was noted that line 92 was to allow for additional time due to the 300-day requirement and should be part of a larger discussion later; (16) with census every ten years and elections every two years, someone will be affected at some point.

***There was a consensus to have Staff review the redistricting plan and the timeline for each step as it pertains to elections.***

## ARTICLE II GOVERNANCE

### SECTION 2.04(b) ELECTIONS

Discussion continued: (1) it was suggested to not strike out the sentence on lines 131-132; (2) a previous consensus was made April 3, 2017 to strike language from lines

131-132; (3) it was noted another meeting will be necessary to finish the Charter review and there is a time constraint with the upcoming election.

**5. COMMISSION COMMUNICATIONS:**

There were no Commission communications.

**6. ADMINISTRATIVE AND LEGAL REPORTS:**

There were no administrative or legal reports.

**7. ADJOURNMENT:**

Mayor Carusone adjourned the North Port City Commission Special Meeting at 3:20 p.m.

City of North Port, Florida

By: \_\_\_\_\_  
Vanessa Carusone, Mayor

Attest: \_\_\_\_\_  
Patsy C. Adkins, MMC, City Clerk

Minutes approved at the City Commission Special Meeting this \_\_\_\_ day of \_\_\_\_\_, 2018.