

CHARTER REVISION BOARD  
MINUTES OF MEETING OF January 22, 2004

Present: James D. Camp, Jr., Esq.  
Chris Fertig, Esq.  
Ronald M. Gunzburger, Esq.  
Dan Lewis

Ex-Officio  
Members: Alan A. Silva, Acting City Manager  
Terry Sharp, Finance Director  
Harry A. Stewart, City Attorney  
Lucy Kisela, City Clerk

Also Present: Vice Mayor-Mayor/Commissioner Carlton B. Moore  
Commissioner Cindi Hutchinson

The meeting held in the City Commission Conference Room was called to order at 9:05 a.m.

Mr. Stewart called the meeting to order at 9:05 a.m. in the 8th Floor City Commission Conference Room. Mr. Stewart advised the Board that although Susan Tramer was on maternity leave and will not be attending this meeting, a quorum was present, and he recommended the meeting begin. Mr. Stewart discussed the Sunshine Law and instructed the Board Members that talk of Charter Revision Board Agenda issues be limited to the discussion at Board meetings.

**Election of Chair and Vice-Chair**

Mr. Gunzburger made a motion to elect Dan Lewis as Chair which was seconded by Mr. Fertig, and all were in favor. Mr. Lewis made a motion to nominate Mr. Camp as Vice Chair. Nominations were closed without objections.

**Minutes of April 15, 2002**

Mr. Camp made a motion to approve the minutes of April 15, 2002, which was seconded by Mr. Fertig. The minutes were unanimously approved without objection.

**Restricting the sale of City park property**

Mr. Stewart explained the history of the initiative petition/Hardy Park, referring to his memorandum No. 03-63 to the City Commission dated February 13, 2003. The City Commission suggested that the Charter Revision Board meet to review whether or not it wanted to make a recommendation to place any impediments in the Charter to the sale of City park property. If the Board wanted to follow the guide that had already been set for several parks, a draft ordinance which required voter approval for sale of a park was included in each Agenda packet.

Mr. Lewis indicated that once the Board is convened, it may at the wishes of the majority of the Board look into any issue it chooses to review by bringing the matter up as "new business." Recommendations to the City Commission are made by the majority vote of the Board. In an effort to move the meetings along, Mr. Lewis encouraged Board Members to use the following guidelines in speaking at the meeting: 1) to make a motion; 2) to speak in favor or opposition; 3) to ask for information; and 4) to make a matter of privilege.

Mr. Fertig began the discussion by clarifying that the change being sought by the ordinance is to remove from the City the discretionary power of selling park property and, instead, requiring a voter majority election to transfer or sell park property.

Mr. Stewart indicated that the original proposal presented by the petition was not acted upon by the City Commission in February 2003. Another petition was prepared and provided to the City Commission which required additional signatures, which was never returned or acted upon. At that time, the Commission recommended Charter Revision Board review. Mr. Stewart discussed Charter provisions limiting the sale of park land.

Mr. Lewis asked if there is a procedure in the City to amend or overturn an ordinance. Mr. Stewart indicated that if the ordinance was originally passed by a simple vote of the City Commission, then it may be amended by the City Commission. If it was passed by the Commission and then approved by the electorate, it would have to be amended with the same dignity as it was adopted.

Mr. Fertig stated that this matter came up because a citizen group was concerned that the federal government may use its eminent domain power to take part of the park. He asked if the proposed City ordinance would limit the federal government's power of eminent domain.

Mr. Stewart replied that the ordinance would not limit the federal government's power to use eminent domain.

Mr. Fertig questioned Mr. Stewart about the "Position Paper on the Proposed Ordinance on Sale or Conveyance of Public Park Property" which was prepared

by the Parks and Recreation Department. Mr. Stewart replied that the purpose of the Position Paper was to give the Board Members a background into the difficulty in identifying park designation.

Mr. Gunzburger asked Mr. Stewart if there is any place in the Charter that specifically defines "recreational park" versus "public lands." Mr. Stewart was not aware of any definition.

Mr. Lewis indicated that the issue before the Board is whether the Board pass a prohibition of sale of public lands or park lands that are owned by the City and take that responsibility from the City Commission and give that power to the people of the City of Fort Lauderdale.

Vice Mayor/Commissioner Moore encouraged the Board to come up with a definition of the term "park."

Mr. Camp felt the Board should have a definition of the term "park" prior to amendment of the Charter.

Mr. Fertig felt the definition will come when the Board starts discussing the issue itself.

Mr. Gunzburger felt the Board could not come up with a Charter provision to restrict the sale of park property without defining what a park is.

Mr. Fertig made a motion for discussion only of the concept of Ordinance C-04- as a potential framework for a Charter provision which was seconded by Mr. Gunzburger.

Mr. Fertig stated that in order for the Board to proceed, it must define the term "park." Mr. Fertig discussed the Position Paper wherein as demographics change, the Parks and Recreation Department would like to be able to sell park land if it no is being used as park land, and take the proceeds from the sale to purchase park lands elsewhere. He indicated that he found the Position Paper unconvincing. He was in favor of passage of the ordinance as it would give the voters some confidence that Commissions in the future cannot sell a park without the approval of a majority of registered electors.

Mr. Lewis offered an option of preservation of public lands. His stated his concern about open spaces and public lands being converted for private purposes. He also stated that it is not practical to govern through elections because you cannot get the kind of information out to the public that is required. He recommended that rather than giving the public a right to vote on this, he would lean on a straight prohibition of "once its a park, its forever a park." As a

softer approach, if there was a municipal need for the park land, there would still be an obligation to get similar land somewhere else.

Mr. Camp was in favor of the policy of maintaining parks for the public and agreed with Mr. Lewis that it is not practical to have an election every time the situation came up. Mr. Camp took particular note the word "flexibility" in the Position Paper. He would leave the decision in the hands of the City Commission as to whether or not a park is to be sold, but would put the restriction that before it could be sold, substitute land be acquired of at least the same size or greater within a certain geographical area of the existing park that may fit the demographics.

Mr. Gunzburger agreed with Mr. Camp that if a municipality needs to use the park as a tunnel, bridge, fire station, for instance, the green or open space must be replaced by the same or greater green or open space. This would allow some flexibility but not too much flexibility.

Mr. Fertig expressed his concern with giving the Commission the discretion to dispose of park property. He felt a vote of the super-majority of the City Commission should be required.

Mr. Lewis proposed a motion to ask the City Attorney to draft a sample set of regulations with the appropriate Charter language which would require that if any open space or land owned by the City is to be sold or transferred, an acquisition of a parcel equal to or greater than the property within a radius would have to be provided, requiring a super-majority of the City Commission as a whole. Mr. Camp made the motion, which was seconded by Mr. Gunzburger.

Discussion as to amendment of the above motion followed among Mr. Fertig, Mr. Gunzburger, Mr. Lewis, Mr. Camp and Mr. Silva regarding open public land. Mr. Fertig requested a read back of the present motion. Mr. Stewart paraphrased the motion above and said that there would also be a definition of "park land."

Mr. Fertig's concern to the motion is the broad concept of just any municipal property. He would urge voting against that or amending it to be more restrictive.

Mr. Lewis indicated that this would be a draft of recommended Charter language by the City Attorney's Office.

Mr. Camp suggested using the terms "parks and open space."

Mr. Gunzburger suggested that the definition of "parks" include definitions of recreational parks, neighborhood parks, community parks and others so that the Board knows what kind of park it is talking about.

Commissioner Hutchinson expressed that if the Board were going to go down the path of all City-owned property, that a list be made of every single parcel that the City owns.

Mr. Fertig requested a read-back of the motion for clarification.

Mr. Stewart restated the motion to draft Charter language which will require a super-majority vote of the City Commission as a whole. If any parks or open space owned by the City is to be sold or transferred, an acquisition of a parcel equal to or greater than the property within a certain radius would have to be provided.

Mr. Lewis requested that the Parks and Recreation Department provide the Board with a memo with the suggested definitions.

Mr. Lewis asked if there were any objections to the motion, and hearing no objections, the motion passed unanimously.

### **Old Business**

There was no old business.

### **New Business**

Mr. Camp expressed concern that Section 8.11 of the Charter provides that the City Commission can sell the Fort Lauderdale Executive Airport without the necessity of putting the same out to competitive bidding.

Mr. Sharp offered a clarification that the Fort Lauderdale Stadium is on the list of park facilities, and it is at the Airport.

Mr. Gunzburger made a motion for discussion at the next meeting for the repeal of Section 8.11 of the Charter. The motion was seconded by Mr. Fertig. There were no objections and this motion will be on the next Agenda of the Charter Revision Board.

Mr. Fertig made a motion to request staff to prepare a list of all municipally-owned property, designating its current use and its function. Mr. Camp seconded the motion. The motion was passed unanimously.

Mr. Lewis asked that the request for a list of City-owned property be passed along to staff so that the Board would receive the list as soon as it is completed. Mr. Lewis asked if there was any other new business.

Mr. Fertig responded that there are a variety of topics concerning the Charter that need to be addressed by the City Commission and wondered whether it would be better if the Board considered an entire Charter review. He felt that there is a lack of definitions which should be added to the Charter.

Mr. Fertig made a motion for a general review of the Charter into the Charter Revision Board Agenda. Mr. Gunzburger seconded the motion. Mr. Lewis wanted to add that the Board try to organize this task section by section and that in approving this motion the Board is committing to an aggressive time frame in order to move this process along.

Mr. Gunzburger spoke in favor of the motion and suggested that the next step should be to have a workshop-type session at the next Board meeting to get a consensus for the key areas the Board might be interested in changing in order to focus the work on a more manageable basis.

Mr. Camp was in favor of a workshop session and suggested that it be held in March because it will take a great deal of time to go through the material.

Mr. Fertig agreed that a workshop meeting to discuss without a motion as to what the Board sees as an option.

Mr. Silva spoke in favor of the motion and felt that the Charter should be more concise. He expressed his concern for the consequences as to time required on behalf of the Board, City staff, and on the part of the City Attorney's Office to put it together. He felt that the Board should first get a consensus from the City Commission that they would be in favor of a revision of the Charter. He also expressed concern as to the final election ballot and whether a vote would be on the whole revision or a vote on every change. Mr. Lewis responded with an example that after revision of the Broward County Charter, there were 13 questions on the ballot.

Mr. Lewis asked if there was further discussion on the procedural motion. The Motion for a general review of the Charter into the Charter Revision Board Agenda passed unanimously without objection.

Mr. Lewis shared his experience in the revision of the Broward County Charter. He indicated that the difference between a workshop meeting and a regular meeting is in not having a quorum at a workshop. A list of Charter issues would be prepared and policies would be set before the drafting of any technical writing. Mr. Lewis felt that the City Commission should allow the Board some independent recommendations which could be accepted or not by the City Commission

Commissioner Hutchinson spoke in favor of the motion to rewrite the Charter and encouraged the Board to work independently in a workshop setting. She asked the City Manager to see whether Susan Tramer wanted to be a part of the Board and, if not, that Commissioner Teel appoint someone else to the Board so that every district in the City is represented.

Mr. Camp supported that the Boards be independent, but because of the many man-hours required, he felt the concept should be approved by the City Commission first before wasting anyone's time.

Mr. Fertig agreed that the City Commission should approve this decision early on.

Mr. Gunzburger agreed with Mr. Camp and Mr. Fertig as to prior City Commission approval and asked that perhaps Mr. Silva try to convince the members of the City Commission as to this revision.

Ms. Kisela made a recommendation that Commission approval be received on a Conference Agenda as a point of order since it will involve staff time.

Mr. Gunzburger made a motion that the Boards ask the City Commission to express support for the concept of a comprehensive rewrite of the City Charter for the purposes of promoting efficiency and better government. Mr. Fertig seconded the motion.

Mr. Camp felt this should be done right away for the next meeting.

Commissioner Hutchinson asked Mr. Silva if he could pole the Commission by phone and see if they are amenable to the concept.

The motion passed unanimously without objection.

Mr. Lewis asked if there was any new business.

Mr. Fertig made a recommendation to ask the City Commissioner to provide the Board with their thoughts as to how they view the present Charter and what changes they think would be of assistance. He also felt key staff members and department heads might want to give more input in what they feel would assist them rather than just the Board coming up with some policy on its own.

Mr. Lewis recommended that the Board solicit from all department heads and interested people broad-based recommendations as to how they think the Charter could change. He also recommended that there be a public hearing or two where people can make suggestions early in the process. This would be

done as a matter of procedure after the City Commission indicates its support of the overall review process.

Mr. Fertig indicated that he wanted to hear the City Commission's input on substantive issues that they would like to see as policy. That would help the Board to work out compromises or a consistent policy.

Mr. Camp agreed that he wanted to know if the City Commission supports the concept and then ask them to submit whatever principles they want the Board to discuss. He did not feel a meeting was necessary.

Mr. Silva suggested that each Board member speak with his own City Commissioner to discuss the Board's intention of a comprehensive rewrite of the City Charter and request their input at a Conference Agenda on February 3, 2004.

Commissioner Hutchinson suggested starting the Conference Agenda an hour earlier to give the Board an opportunity to discuss the concept with the City Commission.

Mr. Gunzburger indicated that he would like to hear the opinion of each City Commissioners on the topic.

Mr. Camp proposed a motion to schedule a joint meeting with the City Commission as a group to determine whether the Commission is supportive of a comprehensive rewrite of the City Charter and to have a general discussion of topics of particular interest to the City Commissioners. Mr. Gunzburger seconded the motion which passed without objection. Mr. Silva was to schedule the proposed meeting.

The next meeting will be scheduled at the Agenda Conference Meeting with the City Commissioners on Tuesday, February 3, 2004. The time will be determined at a later time.

After discussion, the Board decided that if the City Commission buys into the comprehensive rewrite of the City Charter, the Board would meet on a biweekly basis for no longer than two hours, from 4:00 p.m. to 6:00 p.m., on the second and fourth Mondays of each month. The subject of the first meeting would be mostly procedural as to how the Board will accomplish their goals. The next series of meetings would follow input and suggestions from the City Commission and the public at large.

Mr. Lewis indicated that if the City Commission is not in favor of a comprehensive rewrite of the City Charter, the next meeting would be on park and airport issues, and recommendations would be made therefor.



With no further business, the meeting adjourned at 10:45 a.m.