

**CHARTER REVISION BOARD MINUTES**  
**Ft. Lauderdale City Hall**  
**8<sup>th</sup> Floor Conference Room**  
**City of Fort Lauderdale**  
**Monday, June 21, 2004 – 4:00 p.m.**

	Attendance	Cumulative Attendance	
		Present	Absent
Chair Dan Lewis	P	10	0
James D. Camp	P (By phone)	9	1
Chris Fertig	P	8	2
John M. Milledge	P	10	0
Ron Gunzburger	P	8	2

City Staff in Attendance

Commissioner Christine Teel  
Harry Stewart, City Attorney  
Steve Chapman, Assistant City Finance Director  
Alan Silva, Acting City Manager  
Genia Duncan Ellis, President of the Council of Ft. Lauderdale Civic Associations  
Richard Mancuso  
Jamie Opperee, Recording Clerk

Chair Lewis called the meeting to order at 4:17 p.m.

**1. Approve June 7, 2004 Meeting Minutes**

*Motion made by Mr. Gunzburger, seconded by Mr. Milledge, to approve the minutes of the June 7, 2004 meeting. In a voice vote, the motion passed unanimously.*

**2. General Board discussion on citizen bill of rights**

Mr. Gunzburger asked if this were really necessary, or if these rights were not already guaranteed by city ordinance, state law, federal law, the Constitution, etc. Mr. Fertig asked Chair Lewis if he had a proposal for some of these ideas he wanted to incorporate; Chair Lewis directed him to pages 6 and 7 of the Lewis Model Charter (LMC). Mr. Gunzburger asked the purpose of including a public records section when laws already existed regarding this. Chair Lewis noted that the public records section existed in sections C and G. Chair Lewis thought Section C was overbroad and eliminated the discretionary right of a city to elect a public records exemption.

Mr. Gunzburger asked Mr. Stewart if including the language “all other documents shall be open for public inspection” could potentially create an independent cause of action for people who wanted access to, for instance, police officers’ home addresses and personnel files. Mr. Stewart stated that it would require a court test, but this created a serious problem for the City and its litigation because this would waive work product. Chair Lewis acknowledged that the language

should be modified to counter concerns over documents from active litigations. Mr. Stewart felt this language was not consistent with state and federal law but that these would prevail with issues such as police officers' addresses.

Mr. Fertig felt the public records language was ambiguous and could be construed as more restrictive because other public records were defined. Mr. Stewart felt there was sufficient law on the books to resolve the issues; he recommended they omit the public records section. Mr. Milledge felt the citizens' rights section restated some existing rights and granted some new ones. He did not feel the public was concerned about this and did not want to create unintended consequences or cause Mr. Stewart to spend time researching existing law and how this section differed from it.

Mr. Gunzburger wanted to table this item until Mr. Stewart prepared a list of his concerns regarding this section. Mr. Stewart thought that every right listed in the citizens' bill of rights was already "provided for either by statute or by constitutional guarantee, both state and federal."

Mr. Fertig felt that unless they were prepared to spell out minimum standards and define all of the terms, they were killing the rest of the charter. He felt the citizens' bill of rights exceeded their scope. Chair Lewis thought these rights were important and should be stated in "the one document that happens to be the peoples' document."

Mr. Camp felt that if all of the rights were already provided for elsewhere, as Mr. Stewart had stated, that there was no reason to include them here.

*Motion made by Mr. Milledge, seconded by Mr. Camp, to move the agenda. In a voice vote, the motion passed unanimously.*

Mr. Camp wanted to clarify a point regarding their discussion of the non-interference clause at the last meeting. Mr. Camp thought a non-interference clause should be included, but he did not feel the language was specific enough in defining non-interference.

### **3. General Board discussion on City Auditor position**

Mr. Gunzburger thought what he and the public had in mind for an independent auditor was along the lines of the county model, a person who reported to the City Commission, not the City Manager. Mr. Milledge thought there were two issues: whether a CPA should be required, and whether the yearly auditing functions should be managed by this auditor or through the City Manager or City Finance Department.

Mr. Camp wanted to clarify whether the position would supplant the City Auditor, or act as a watchdog or inspector general, reporting to the City Commission. Mr. Fertig thought they were not trying to replace the current auditor position, but to add someone to be a watchdog or

inspector general so the City Commission could ask this person to verify information and liaise with the City Auditing Department.

Mr. Gunzburger stated that his concept was an independent auditor with a CPA who would report directly to the City Commission and to whom the city auditors would report directly, not through the City Manager. He felt they would be doing the public a disservice if an auditor position were created that was not truly independent, whose entire staff reported to the City Manager.

Mr. Milledge stressed that the position should not be a broad, inspector general-type of position. The person should have a CPA and be able to advise the City Commission on financial issues. He wanted someone who could be “on the spot” for the City Commission to help them make financial decisions.

Mr. Fertig wondered to whom the City Manager would go for information if this person were not working for him. He asked Mr. Silva’s thoughts on the matter. Mr. Silva felt that a fundamental distrust of government might be causing them to emulate the separation of powers that was a component of state and federal government. At the lower levels of government, however, there was usually a more collaborative, cooperative approach. Creating entities that checked up on each other gave the impression of distrust and/or conflict. Mr. Silva feared that this attitude might lead to an independent auditor’s “blowing whistles” in order to justify his existence. He felt this position should be collaborative with the City Manager and should look at the larger issues of waste, fraud and abuse in government, not just the audit function. He felt some of the City’s problems were due to there not being an external, dispassionate financial advisor.

Chair Lewis distinguished between the accounting function that fell under the City Manager in the Manager/Commission form of government and the auditing function for checks and balances. Chair Lewis was in favor of creating all of the auditing functions separate from the administration of the accounting functions. Their scope only related to accounting matters and business practices, vs. financial matters.

Mr. Fertig remembered citizens at the public input meeting using the word “watchdog” and referring to someone who would work with the commissioners to “go into the City and find the answers to a particular question.” There was already an internal audit division in the City Manager’s office. He felt moving this division under the City Commission gave the commissioners a far broader scope than they wanted.

***Motion*** made by Mr. Gunzburger, seconded by Mr. Fertig, to recommend the City create the position of Independent Auditor, who would:

- *be selected by and report to the City Commission,*
- *have unfettered access to all City financial books and records,*
- *possess a CPA license,*

- *follow government auditing standards and review business practices, procedures, internal controls and procurement practices which are used, employed and promulgated by the City government,*
- *be responsible for the performance of such other duties as assigned by the City Commission,*
- *have the power to pull any agenda item for one meeting for review.*

*This recommendation would be silent as to where the auditor would be on City staff.*

*In a voice vote, the motion passed 4 – 1 as follows: Chair Lewis, Yes; Mr. Gunzburger, Yes; Mr. Milledge, Yes; Mr. Camp, No.*

Mr. Camp asked Mr. Milledge if he favored limiting an independent auditor to financial matters. Mr. Milledge confirmed that he did. He was concerned with creating a rival with the City Manager. Mr. Milledge thought the language should specify the financial focus of the position.

Chair Lewis directed their attention to page 18, line 28 of the LMC. He recommended they remove the phrase “and shall be responsible for the internal; audit functions of the City”, but keep the language of lines 29 and 30 regarding business practices and procedures instead of the previously considered fraud and abuse language.

Mr. Camp voted against the motion because he was opposed to allowing the auditor to remove any item from the agenda; he felt this gave him too much power. Mr. Gunzburger thought this idea evolved from problems the county had experienced during the port land deal, how this was seen as a “rush deal”. The auditor’s ability to pull an agenda item was intended to prevent a “you have to vote on this right now” problem and allow the auditor sufficient time for analysis before advising the City Commission.

***Motion** made by Mr. Milledge, seconded by Mr. Camp, to set the Independent Auditor position’s term as described in Section 4.01, item C of the LMC. In a voice vote, the motion passed unanimously.*

***Motion** made by Mr. Gunzburger, seconded by Mr. Camp, to fund and give the Independent Auditor the ability to hire staff as described in Section 4.01, items J and K of the LMC. In a voice vote, the motion passed unanimously.*

Mr. Fertig wanted to clarify who was responsible for hiring the Independent Auditor’s staff. Mr. Silva stated that usually the City Commission allotted a budget and designated the City Auditor positions; the auditor was then responsible for filling those positions.

**4. General Board discussion on requiring public bidding/sealed bids on the sale of City-owned real estate and for long-term leases of City-owned real estate (in excess of 10 years)**

*Motion made by Mr. Camp, seconded by Mr. Gunzburger, to require public bidding/sealed bids on the sale of City-owned real estate and for lease of City-owned real estate in excess of 1 year. (Motion was later restated by Mr. Milledge and then voted on.)*

Chair Lewis asked Mr. Camp if he was excluding RFPs (which considered bid amounts as well as other criteria) from the public bidding process. Mr. Camp wanted to concentrate on the sale and lease of city-owned real estate only; he was flexible on the lease length.

Mr. Gunzburger wanted to clarify that any sale or long-term lease would still fall under the other proposal involving parks and open space. He was concerned that Section 8.11 of the existing charter, which exempted the sale of Executive Airport land from procedures used elsewhere, should be repealed. He had no objection with Section 8.04 as it was, as long as long-term leases were dealt with and as long as nothing in either Section 8.04 or 8.09 would weaken anything in the new Charter regarding parks and open space.

Mr. Stewart explained that the airport property could only be used for airport purposes and there were a very limited number of entities that could provide a particular service. A problem could arise because “the property would be much more valuable for purposes of whatever the highest bidder might offer than for the limited purposes for which the City could offer it in the first place.” Mr. Gunzburger felt the use could be built into the RFP or the bidding process. He asked Mr. Camp if he had any objection to allowing the City to use RFP’s to ensure appropriate land use.

Mr. Milledge confirmed with Mr. Stewart that there were statutory restrictions on the City’s sale of real property. Mr. Stewart pointed out that the City had purchased certain parcels of land with the intent of selling them to a developer not based on the bid, but on the worthiness or suitability of the project. As long as the RFP process was included in Mr. Camp’s motion, he felt they would be covered.

Mr. Milledge wished to amend the motion to substitute “competitive process” for “bidding/sealed bids”, and to specifically exclude the Executive Airport. Chair Lewis noted that in the current Charter, Sections 8.04, 8.07, 8.11, 8.12 and Section 209 of the Urban Renewal eliminated the requirement for a competitive process. Mr. Gunzburger noted that Section 8.11 would be excluded as the motion would exclude the Executive Airport.

***Motion made by Mr. Gunzburger, seconded by Mr. Camp, to delete Section 8.11 from the current Charter. In a voice vote, the motion passed unanimously.***

Mr. Camp asked Mr. Milledge to restate his (Mr. Camp’s) previous motion.

***Motion made by Mr. Milledge, seconded by Mr. Camp, to require competitive process for any sale or long-term lease of any city-owned real estate, long-term lease being defined as exceeding one year. In a voice vote, the motion passed unanimously.***

Mr. Fertig felt they should narrow the definition of “competitive process”; Mr. Gunzburger felt this should be left to the City Commission. Mr. Milledge confirmed that state law defined competitive process.

*Motion made by Mr. Gunzburger, seconded by Mr. Fertig, to delete Section 8.12 from the current Charter. In a voice vote, the motion passed unanimously.*

**5. General Board discussion on empowering the City to establish its own electric/gas power facility**

*Motion made by Mr. Camp, seconded by Mr. Gunzburger, that the City be authorized to establish its own electric or gas power facility barring any statutory prohibition. Voting was postponed to allow Mr. Stewart’s input at the next meeting.*

There was some discussion whether the state permitted the City to do this; Mr. Milledge noted that if the State did not give them this authority, putting it in the Charter would be meaningless. Mr. Stewart agreed to check and report back at the next meeting.

*Motion made by Mr. Camp, seconded by Mr. Gunzburger, to adopt Section 1.02 item A of the LMC regarding the general powers of the City, deleting the final words “approved by vote of the electors and this Charter.” In a voice vote, the motion passed unanimously.*

**6. General Board discussion on giving the Mayor the right to appoint members of City boards with the advice and consent of the Commission**

*Motion made by Mr. Camp to give the Mayor the right to appoint members of City boards with the advice and consent of the Commission. Motion failed for lack of a second.*

**7. Various issues to be raised by Jim Camp**

Chair Lewis determined which of Mr. Camp’s issues had been covered and which should be put on a future agenda.

**8. Public input – time allowing**

**9. Future agendas**

Mr. Camp wished to add the issue of staggered terms on a future agenda; Chair Lewis agreed.

**10. Old business**

**11. New business**

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The next meeting was scheduled for Monday, June 28 at 4 p.m.; the Board agreed to meet until 7 p.m.

**12. Adjourn**

Thereupon the meeting concluded at 6:07 p.m.