

**CHARTER REVISION BOARD MINUTES
CITY OF FORT LAUDERDALE
December 3, 2009**

The meeting was called to order at 5:35 p.m. on the above date by Chairman Ketcham in the City Commission Meeting Room of City Hall.

Roll call showed:

Present: Mark E. Ketcham, Chair
Alain Jean (arrived at 5:41 p.m.)
E. Clay Shaw
Maria Del Rosario Lescano
Judy Stern

Also Present: George Gretsas, City Manager
John Herbst, City Auditor
Jonda K. Joseph, City Clerk
Harry A. Stewart, City Attorney

1. Approve minutes – November 5, 2009

Motion made by Mr. Shaw and seconded by Ms. Lescano to approve the minutes of the November 5, 2009 meeting. Roll call showed: YEAS: Members Shaw, Lescano and Stern and Chairman Ketcham. NAYS: None.

5. Old Business

Ordinance of the City of Fort Lauderdale, Florida, amending the Charter of the City of Fort Lauderdale, Florida, requiring the City Manager to include a financial forecast projected five years into the future; providing for approval by the electors; and providing for severability, repeal of conflicting ordinance provisions, and an effective date

The City Attorney recalled discussion at the joint workshop with the Commission as to the charter serving as the City's constitution. This matter may also be accomplished by ordinance. It ties the hands of future commissions. Chairman Ketcham thought there was a consensus that the charter be left in tact unless it is necessary. However, he did not see this restricting future commissions because he felt there should be a five-year projection. Mr. Shaw saw no compelling reason. He did not want to include anything unnecessary in charter because it becomes a mandate that can only be changed by the voters. It is awkward and expensive. Although it is probably not possible due to the length, he wanted to review the charter for what could be stricken. He believed it may be longer than the Constitution of the United States. In general, Ms. Stern simply wanted assurance that the abuses will be addressed. She wanted to still present the topic.

In response to Chairman Ketcham's question of whether direction for a five-year forecast could be provided by ordinance without it being in the charter, the City Manager indicated the Commission has given that direction and staff will comply. Ms. Stern

pointed out that there has been direction on other issues in the past, but nothing has moved forward. (Mr. Jean arrived at 5:41 p.m.)

In response to Chairman Ketcham's request for input, the City Auditor advised that the only rationale for including it in the charter is to ensure that it binds the hands of future commissions. It can be just as easily accomplished by ordinance. It is a question of whether it is important enough to be enshrined in the charter as a best practice. Ms. Lescano noted that Mayor Seiler was clear in his desire for the forecast to be in the charter. She asked in what context he has reviewed it if at all. The City Auditor reviewed the history of the item, including his recommendation that the City embrace five-year financial planning that is a recommended best practice of the Government Finance Officers Association. Such forecasting has not been done in the past. The City Attorney noted that there are five-year capital improvement plans on the expenditure side. He clarified that he is not recommending that this not be recommended as a charter amendment. He indicated that he will be consistent in advising the board of all matters that could be accomplished by ordinance.

The City Attorney responded to Ms. Lescano's question about public input, indicating it will occur before it is placed on the ballot at the board and Commission levels. Ms. Lescano pointed out that the same would occur with an ordinance. The City Attorney concurred.

Mr. Shaw wanted to wait for the Commission to take action, recognizing that Mayor Seiler seems to feel strongly on it. Ms. Stern pointed out that at the workshop Mayor Seiler and Commission asked the board to look at this. She felt it should be moved forward to the Commission, giving them the option of it being by ordinance. The City Attorney indicated it could then be adopted quicker and be applicable to the next cycle, whereas a charter amendment would not be effective until after November.

Motion made by Mr. Shaw and seconded by Ms. Stern recommending the above noted five-year forecast amendment be adopted as an ordinance. Roll call showed: **YEAS:** Members Jean, Shaw, Lescano and Stern and Chairman Ketcham. **NAYS:** None.

In response to Ms. Stern, the City Attorney indicated the information will be furnished to the Commission by their first meeting in January. With Commission direction, an ordinance could be adopted by the second meeting in February.

2. Discuss any issues from City Commission Workshop meeting held December 1, 2009

Ms. Stern felt the public property issue raised by Commissioner Rogers need to be addressed by the charter and not by ordinance.

The City Auditor advised that one issue he had brought forward had to do with disposition of property acquired by the City for the use of affordable housing purposes. The charter currently provides the property has to be offered for sale to the highest bidder. There are programs that require property be sold to low to moderate income individuals if funded through the use of Community Development Block Grant or Neighborhood Stabilization Foreclosure Prevention Program funds, for example. Therefore, the charter is preventing the City from complying with the terms of various grants.

Chairman Ketcham asked who would do the research and rewrite. The City Attorney indicated his office would be responsible. He explained the reason it has been left dormant is that there would need to be a provision to allow for the sale of property at discounted rates and the likelihood of such an amendment passing is not good. The City can transfer property to the Community Redevelopment Agency (CRA) and Northwest Neighborhood Improvement District, for example. They have been managing. It limits the other areas of the City. He has taken the position if the property is acquired with government grants; the City is simply the agent for the government with respect to the transfer. If it is put to a vote of the voters and denied, the Commission could not ignore it.

The City Attorney responded to Ms. Lescano's question concerning the urban renewal appendix to the charter, noting the history. He indicated it is a provision that can be used in an area where there is not a CRA. He felt there is a benefit in repealing it, but it has been in existence since 1961 and has not created a problem. He went on to explain the difficulty in creating a CRA. Mr. Jean asked what other vehicles besides a CRA could be used for affordable housing. The City Attorney advised the City has been using federal grants. There are problems with surplus property acquired from other than a grant, but usually the value is fairly low and it is worked through.

Ms. Stern asked about the process with respect to appraisals. The City Attorney indicated the City and the other party obtain appraisals and if there is a large disparity, a third appraisal is obtained. He was not certain off hand of a percentage guideline. In further response, the City Attorney indicated if the City is purchasing property and the two appraisals are more than 10% apart, a third appraisal must be obtained. The City Auditor added as a matter of policy if it is over a certain amount, two appraisals will be obtained. The CRA may go 10% above the appraised value; a parcel may have more value due to its part in the CRA's strategic plan. The City has appraisals before property is sold.

Chairman Ketcham noted that the board has a limited amount of time and this discussion is turning to an area where they do not know the specifics. He suggested if a member wants to suggest something, he or she should consult staff or otherwise and come forward with a specific proposal. The proposal could then be presented at a board meeting and a vote taken to see if there is a majority to move forward.

Chairman Ketcham understood there are some housekeeping issues to be addressed in the charter. If that is the case, he asked that it be presented on one page. The City Attorney offered to follow-up, but was not aware of any offhand.

With respect to property redevelopment, Mr. Shaw indicated during his tenure with the City in the 1960's, the City formed a separate corporation.

Mr. Shaw wanted to not send something to the Commission that would be political suicide. Voters would revolt against giving City property away at less than the fair market value. He relied on the City Attorney to make recommendations. He planned to consult Commissioner Rogers, who nominated him, on this issue.

The City Auditor indicated one idea that is near and dear to Commissioner Rogers' heart is establishment of a community land trust. The charter may be an impediment to it. Chairman Ketcham wanted the proposal to be in written form to facilitate discussion.

Mr. Shaw noted Section 7.08, filling of vacancies on the commission, was discussed at the workshop. The City Attorney provided an overview of the provision and the history on former Commissioner Carlton Moore's resignation. As such, Mr. Shaw did not think the language needs to be changed. In response to Ms. Lescano, the City Attorney advised that a member of the commission may choose the date of their resignation but not the date of appointment of the individual that succeeds them. The Commission would decide the date that they will select the replacement. If the Commission selects a date that precedes the individual leaving office, that individual has every right to vote on anything that comes to the Commission prior to their departure. If the Commission decides to make the selection after the position is vacant, that individual would not get to vote on it. In response to Ms. Stern, the City Attorney advised that Commissioner Moore's resignation letter indicated he was resigning that day. His legal opinion was that it was close of business and that on a regular meeting day; it would be whenever the meeting adjourned. This point, however, does not pertain to the charter. Ms. Stern believed there are other municipalities that use 12:01.

Ms. Stern suggested since some of these items were sent to the board, that they return them to the Commission for discussion and referral back to the board. Chairman Ketcham indicated that he listened for three solid votes on items discussed at the workshop and he did not hear any. Ms. Stern wanted to clarify Section 7.08, but Chairman Ketcham felt it is already clear. Mr. Jean asked why the Commission decided to appoint Commissioner Moore's replacement before he left office. The City Attorney explained that the Commission felt the district should have a representative at every meeting and to go through the appointment process prior to Commissioner Moore leaving, so that there would be someone in the position at the very next meeting. The City Manager pointed out that the Commission could have done the vetting while Commissioner Moore was still in office and then made the appointment at the meeting after he left the position. It was awkward because the others had served with him. Mr. Shaw felt it is important to note that Commissioner Moore was only one vote out of five. He did not think the provision needs to be amended. In response to Mr. Jean, the City Attorney indicated the appointment would have to be effective after the resignation. Ms. Lescano questioned if there would be any value to codifying the City Attorney's opinion. The City Attorney did not think so, as his opinion was that the language means what it says. Mr. Shaw left the meeting at 6:29 p.m.

Mr. Jean wanted to discuss the time certain with respect to meetings (ending) with the City Attorney before bringing it to the board.

Ms. Lescano referred to Mayor Seiler's comments about a section on ethics. She felt the board should decide whether to consider it. Chairman Ketcham questioned where a code of ethics would be placed. The City Attorney indicated it would probably be a new section of the charter. Ms. Lescano questioned if there is duplication considering the state statutes. The City Attorney noted that Fort Lauderdale has the most restrictive ethics rules in the county and probably in the state. In addition to the state rules, there is an ordinance prohibiting solicitation for third parties and use of City resources. The question would be whether the additional requirements should be put into the charter. Ms. Stern noted that honest services will soon be ruled on by the Supreme Court. She commented that it is helpful to do a refresher so the public is aware of the limitations. The City Attorney advised that when it comes to local ordinances, state law prevails. Ms. Stern noted it is not just elected officials, but the entire government staff. The City Attorney indicated that at the Commission's request, he prepared a list of all city, state

and federal restrictions, in order for the Commission to decide if they needed anything additional. Chairman Ketcham felt the Commission has a lot of restrictions, including that election contributions may only come from citizens.

Ms. Stern asked the City Clerk to complete surveying Broward cities as to employment contracts. The City Clerk was unclear about the request, but thought that possibly Human Resources might be helpful. The City Manager believed the Commission decided on the issue; therefore he questioned the purpose of the research. He thought as long as it was three months severance and three months notice, the Commission was satisfied. The City Attorney was not certain if there was closure, but his notes also reflect three months notice and three months severance or approval by the Commission if more than three. Ms. Stern understood there would be notification beyond the three months. The survey was mentioned at the workshop. The City Manager thought there was consensus on the city manager approving contracts and the Commission would be provided. He recalled Mayor Seiler indicating he was comfortable with three months notice and three months severance. Ms. Stern suggested the City Manager review the tape recording. With respect to surveying, the City Clerk felt Human Resources would be more prepared; however, the City Manager was not agreeable to it. Chairman Ketcham recalled the Commission deciding on the three month and three month, and if a city manager wanted to give six months, the Commission would have to approve it. He also recalled there was discussion that it could be accomplished by ordinance. Ms. Stern agreed it could be addressed via ordinance, but there was discussion about a survey (at the workshop). She had posed the question and there was no objection from the Commission. She agreed it could be something for future business.

Chairman Ketcham asked about the topic of changing the election time. The City Attorney indicated that it is a complicated issue; it would require extending terms to four years and consideration could be given to whether there should be staggered elections. If the elections would occur on even-numbered years to conform to gubernatorial and presidential elections, term limits would have to be extended. A decision would have to be made on whether there should be two, four-year terms, etc. There is a special act in Broward County that eliminates primaries for cities holding elections on even-numbered years with the gubernatorial or presidential elections. The Commission would be presenting something to the voters that would extend their terms. Chairman Ketcham did not think it would be successful. Ms. Stern noted that moving to November costs more for a candidate to run for office and citizens who have spoken on the issue do not favor raising the \$250 contribution limit. Ms. Lescano agreed it is not worthwhile because of the cost that is borne by the public. Chairman Ketcham felt the people that vote in February and March are more educated on the issues and they are concerned enough to come to the polls.

3. **Public input** - none
4. **Issues for future agendas**
5. **New business**

There being no other matters to come before the board, the meeting was adjourned at 6:45 p.m.