

CITY COMMISSION WORKSHOP WITH CHARTER REVISION BOARD

OCTOBER 18, 2011

City Commission Present: Mayor John P. "Jack" Seiler
Vice Mayor Bobby B. DuBose
Commissioner Bruce G. Roberts
Commissioner Charlotte E. Rodstrom
Commissioner Romney Rogers

Charter Revision Board Present: Chair Judy Stern
Rochelle Golub
Maria Del Rosario Lescano
Alain Jean

Also Present: City Manager Lee R. Feldman
City Auditor John Herbst
City Clerk Jonda K. Joseph
City Attorney Harry A. Stewart

Absent: E. Clay Shaw, Charter Revision Board

Mayor Seiler called the meeting to order at 12:18 p.m.

1. Call to order and introduction of Charter Revision Board members

Introductions were made.

Chair Stern noted there were a couple items passed by the previous board, but because of the cost of a holding a special election, they were delayed. With the upcoming 2012 general election, she brought to light the idea of scheduling those items at that time. They had to do with the sale of surplus land and financial forecasts. The City Attorney advised that setting the election for the sale of property will be presented to the Commission on November 1.

Ms. Golub noted that on June 2 the board voted to bring to the Commission's attention the issue of whether studies commissioned by the Commission have any impact on future decision-making of the Commission. This was raised by the Council of Civic Associations because they feel there are many studies on the shelf and questioned whether there should be a force put behind studies. Chair Stern indicated that the June 2 meeting minutes were included in the information provided to the Commission. Commissioner Rodstrom was concerned about cost. Ms. Golub did not think the idea was necessarily that of the Council but rather it became a forum for communities to talk about this. Mayor Seiler agreed that once a plan is adopted, a way to implement should be figured out. In response to Commissioner Rogers, the City Attorney indicated that principles of governance are included in the charter and ordinances are designed to be regulations that implement those principles. The original discussion was that once a plan was paid for, it must be implemented. It is not possible to bind future commissions if it is legislative or discretionary. Discussion ensued on the point of binding future commissions. Chair Stern explained that the board needs discussion in order to start working on a principles and policy section to be added to the charter. The City Attorney

confirmed for Chair Stern that regulations are not generally in a charter, but rather principles of governance. Ms. Golub did not think the thinking was that if you pay for it, you must implement it. Also, she felt the whole issue of paying for it is a red herring to the discussion. If a commission endorses a plan, it is obligated to follow that plan until it is voted down or changed. Commissioner Roberts did not want to take away flexibility to make changes along the way. He recognized the need for a decision to be made on a plan.

Mayor Seiler asked what the board is seeking from the Commission on this issue. Chair Stern saw this issue as one of policy versus charter, unless the Commission directs otherwise. As such, she wanted to bring that to the Commission's attention at a workshop. Mayor Seiler remarked on the scarcity of plans ordered by this Commission and enumerated the status of those that have come forward during the time this Commission has been seated. He did not think there have been any that have not been implemented. Commissioner Rogers questioned how common sense and good government or flexibility, for example, can be put into a charter.

There was consensus not to incorporate anything into the charter on this item.

2. Charter Revision Board's proposed schedule:

a. Charter Schools in the city

Chair Stern indicated this item was placed on the board's June agenda. The board questioned it being brought forward to them and did not see it as a charter issue. She thought it is more of a concern about under-enrollment. Mayor Seiler thought at one point in time there was interest from the public about the idea of the City operating charter schools which would require a charter amendment. However, until the Commission makes such a decision, it is premature to present the matter to the Charter Revision Board. A general discussion ensued about education and the quality of public schools in the city today, however there appears to be a gap between elementary and high school. Vice Mayor DuBose remarked about the inequity of funding schools in the eastern part of the county. He believed that the School Board is looking at charter schools as an issue. He thought it may not be in the City's best interest to operate charter schools. It could become problematic if a charter school was authorized and was launched into operation in the city because it is only a matter of obtaining authorization. He hoped some of these issues could be discussed at some point, but did not see this as a charter issue at this time.

b. Number of assistant city managers/directors

Chair Stern commented on her previous concern with the number of administrators and contract employees. She was pleased with the new administration and their philosophy. She thought it would be wise to put some protection into the charter. In response to Mayor Seiler, the City Manager expressed the view that such limitations should not be put into the charter because it could hand-tie a manager. However, if the commission is not happy with a structure, the simple solution is to get rid of the administrator. His philosophy is not to have contracts with department directors. There have been special circumstances of directors being in the DROP and in order to be re-hired, some sort of contract is required. The City Attorney provided more clarity on this point having to do with employees who were in DROP not being able to receive additional retirement

benefits. A contract is required to provide that they do not receive retirement benefits. Ms. Golub thought this could be resolved by a means other than a contract.

Commissioner Rogers pointed out that in this city manager form of government, the Commission is not to involve itself with management structure. Also, in certain markets, a contract for a period of time may be necessary which would be the manager's call.

The City Manager thought the entire section (Article VI) needs a little work. With the reorganization, there are some matters that must be presented to the Civil Service Board however one does not exist. Mayor Seiler remarked that there are issues with this article and suggested the board be given this assignment. The City Manager offered to present a proposal to the board. Mayor Seiler thought input from both the Manager and Attorney should be sought. Commissioner Rodstrom suggested the board make some comparisons with cities of similar size.

c. Restrictions on leases of city land

With respect to the Bahia Mar property, Ms. Golub indicated that in looking at the plain language of the charter, it did not appear that there is authority in the charter to stack fifty-year leases on top of each other. In order to do so, she felt the charter has to be revised. If the charter does not permit this, the Commission needs to be so advised. The City Attorney explained that it is not prohibited by the charter. This discussion was raised specifically with respect to the Bahia Mar lease. The charter does not prohibit stacking, but simply indicates that a fifty-year lease is permissible. It provides for renewal of a fifty-year lease for fifty years. In the case of Bahia Mar, the City is entering into a new lease and then entering into a second lease for fifty years hence. It does not specify that the City must wait for a lease to expire before entering into negotiations or approve a second lease. The time frame is not discussed. In response to Commissioner Rodstrom, the City Attorney advised that the public bid does not come into it. He noted that there was a time when Bahia Mar had a sixty-five year lease. It had been renewed on separate occasions and on the last renewal, the remaining term was sixty-five years. Ms. Golub thought that under that theory there could be a continued renewal to the same ownership. The City Attorney explained it is technically two, fifty-year leases that are tandem, and it does not violate the charter, although it may violate the charter's intent. The sixty-five year lease was an extension of a fifty-year lease and specifically provides for one extension. According to Section 8.06, any extension cannot go beyond fifty-years of the original termination date. He did not think the Commission could enter into a fifty-year lease and have a provision for lessee to have a unilateral right to renew because that would be a hundred-year lease in effect. In response to Commissioner Rodstrom, the City Attorney clarified that the current fifty-year lease is being exchanged for a new fifty-year lease with different terms. The Commission has seemed to go along with a hundred years because of the type of project planned. The only way to do so is to have two separate leases; no extension. There would be better terms and as such the public interest would be served. For Ms. Lescano's benefit, the City Attorney recapped the chronology starting in 1962. Mayor Seiler explained his intention is to get out of an unfavorable lease in order to improve upon it and allow development. In response to Mr. Jean, Commissioner Rodstrom indicated a desire to straighten out any questions regardless of who is developing the property. Commissioner Rogers thought it would be premature to consider amending the charter at this time, knowing that the City is locked into a fifty-year lease. Chair Stern pointed out that the entire section (Article VIII) has to do with public land and needs to be revisited. Commissioner Roberts reiterated his desire for flexibility including the ability to have two, fifty-year leases. Mayor Seiler

agreed with the goal of being more flexible. Commissioner Rodstrom wanted the ability to make changes in fifty years and not being locked-in for a hundred years. Ms. Golub pointed out that the lack of clarity in the charter has made this into an issue.

Mayor Seiler concluded there is consensus for the board to work on Article VIII.

With respect to Articles III and VII, relating to elections, Chair Stern noted in the information she provided to the Commission is the Attorney General's opinion (AGO 2007-34, dated July 24, 2007) and referred to the City Attorney's opinion about moving the City's right by ordinance to move the primary election to January to coincide with the presidential primary. Four-year terms versus three-years would be a major cost -saving. The board discussed having some type of timeline for redistricting. She has received legal opinions from Tallahassee that may be different than that of the City. It really comes down to clarity in the charter.

Commissioner Rodstrom raised the idea of posing the question of changing the term length to the voters. Chair Stern noted that Cooper City recently changed their term as have other cities. The City could also consider changing the personal campaign contribution limitation of \$250 in that it requires more funds to compete in a November election. It could be left to the voters. Vice Mayor DuBose noted that it is an issue raised since he has been in office and prior to that time. It would be cost-saving. He thought all of these points should be looked into.

Mayor Seiler referred to Section 3.08 of the charter concerning excused absences of members of the Commission and wanted to make certain that Vice Mayor DuBose's recent absences due to a traffic accident are shown as excused. He went on to refer to Section 3.11. With regard to the summer vacation break, discussion ensued about possibly changing the language to provide for two consecutive meetings to be eliminated instead of the one-month provision. Mayor Seiler asked the board to look into Section 3.11. Vice Mayor DuBose wanted a time-certain for meetings to end. It becomes problematic for citizens. Chair Stern noted in many cities, there must be a vote to extend a meeting past midnight. She also raised the idea of a three-minute limitation to speak on any business item. Mayor Seiler did not think there needs to be a time restriction. He went on to refer to Section 3.13 and mentioned his desire to hold a Commission meeting in each district each year and understood it could be accomplished by resolution. Chair Stern indicated that arrangements would have to be made to televise and record them.

Returning to discussion with respect to elections, Chair Stern noted the Attorney General's opinion giving cities the right by ordinance to change the City's election date to that of the presidential primary. Another question raised was a timeline for redistricting. In response to Mayor Seiler, the City Attorney advised that the charter simply provides that there shall be redistricting with no timeline. From conversations with individuals in Tallahassee, Chair Stern understood that it should be done prior to the next election, which could be clarified in the charter as to whether it is the next municipal or general. Mayor Seiler suggested this be looked into. He disagreed with requiring redistricting before the next election. He referred to the County and State taking six to nine months more time to redistrict and that the data is the same. Commissioner Rodstrom pointed out that there are other municipalities going forward with redistricting before their election, however, Mayor Seiler believed that they started earlier. Commissioner Rodstrom pointed out that everyone started after the census data was available. Chair Stern explained that Pembroke Pines after looking at the districts did not proceed because the variables did not force the thresholds.

Mayor Seiler concluded that Article III, especially with respect to the meeting place. Commissioner Rodstrom added that the board look at the thirty-day provision in order to be in compliance with what the Commission is currently doing.

The meeting adjourned at 1:30 p.m.