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Town Clerk Department
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Longboat Key, FL 34228

DATE: 05-24-2005

SUBJECT: Microfilming

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CHARTER REVIEW COMMITTEE 03-16-1998

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MINUTES: **Charter Review Committee**

MEETING DATE: 3-16-98 **TIME:** 1:30 PM

PRESENT: Chairman Jim Brown, Vice-Chairman Bob Farber, Members Bob Drohlich, Lew Gotthainer, Al Green, Ken McCall, Lee Rothenberg

ALSO PRESENT: Town Manager St. Denis, Town Attorney Persson, Deputy Clerk-Minutes Dunay-Mixon

Call to Order
The meeting was called to order at 1:30 PM at the Town Commission Chambers, Town Hall, 501 Bay Isles Road, Longboat Key, Florida.

1. Introductory Remarks By Chairman

2. Old Business (Articles Previously Reviewed)

A. Article I

Mr. Persson read the new language for Article I, Section 2; discussion followed concerning the male and female references throughout the Charter. Mr. Drohlich suggested using the term "individuals" whereby eliminating specific gender references.

There was a consensus to rewrite Article I, Section 2, to further address gender references and to alternate "he" and "she" throughout the Charter when gender references were made.

B. Article I, Section 8, Ethics in government.

Mr. Rothenberg read the new language developed for Article I, Section 8; discussion ensued. Mr. Farber suggested adding language to address the relationship between a Commissioner and a Town employee. Mr. Persson advised the State Ethics Commission would not uphold local rules and regulations; therefore, the reference would not be appropriate.

Mr. Farber inquired as to the governing body which would regulate compliance with local rules. Chairman Brown suggested the Town Commission would police itself. Mr. Green stated Town employees should be informed that they were not to take direction from a Commissioner or Board member.

Mr. Drohlich stated any ethical violation committed by a Town Commissioner should be referred to the State Ethics Commission; any ethical violation committed by a Town employee would be referred to the Town Manager; however, the Charter language did not spell out this direction. Mr. Persson stated the Town would adopt the State Ethics Commission standards.

Mr. Green pointed out the State Ethics Commission would only address 10 types of conduct. Chairman Brown explained the difference between a violation of the Charter and an ethical violation. Mr. Gotthainer briefly described the eleven situations which were brought before the Longboat Key Ethics Commission. Mr. Green pointed out the majority of the issues before the Ethics Commission were requests for opinions and the Town Attorney would be able to render legal opinions. Mr. Persson advised in terms of advisory opinions the Town Attorney would render this service, except when personal involvement occurred.

Mr. Farber suggested adding language to Article III, Section 4, Powers and duties of the town manager, which would deal with ethics complaints against a Town employee; the governing body and the Town should be aware of the method established to sit in judgment of an ethics violation.

Mr. Drohlich stated it would be simple to add a simple statement indicting ethics violations by a Town employee would be referred to the Town Manager and any violation complaint against a Town Commissioner or Board Member would be referred to the State Ethics Commission; the citizens would be aware of the Town's ethics policy. Chairman Brown stated the State Ethics Commission would not address violations of the Town Charter by a Commissioner. Mr. Green pointed out Town Commissioners were elected by the registered voters to serve the public; the democratic process could be used if a trust were violated.

There was a consensus to add language which addressed ethics violations and a reference to forward ethics complaints to the State Ethics Commission for review.

Mr. Persson advised adding the following preamble: "In addition to all other actions, any violation shall be forwarded to the State Ethics Commission."

There was a consensus to add the preamble as suggested by the Town Attorney.

<u>C. Article I, Section 4, Form of government.</u>
Chairman Brown reminded the Committee of the 5-2 decision on the number of Town Commissioners (seven).

Chairman Brown reminded the Committee that during deliberations a decision was not reached on the number of years a Town Commissioner's term would encompass. Mr. McCall, Mr. Brown, Mr. Green, Mr. Farber, and Mr. Rothenberg favored a two-year Town Commission term; Mr. Drohlich and Mr. Gotthainer opposed a two-year Town Commission term and favored a three-year term.

There was a consensus to continue with the two-year Town Commission term.

<u>D. Article II, Section 3, Nominations; character of service.</u>
Mr. Drohlich read the new language for Article II, Section 3; discussion ensued. Chairman Brown suggested changing "Longboat Key" to "Sarasota and Manatee Counties".

Mr. Green asked whether the Town Commissioners would be considered employees and available to receive medical and pension benefits. Chairman Brown suggested adding language which would indicate that the Town Commissioners were not to be considered as employees.

Mr. Farber explained the $2,000 was to be considered an expense account to be utilized for ordinary expenses; the extra-ordinary expenses (conferences) were to be considered separately. Mr. Green questioned whether the Town would be required to issue a 1099 Form to the Commissioners.

There was a consensus to determine whether Town Commissioners would be considered employees and to further discuss the issue at the 3-23 Charter Review Committee meeting.

Mr. Drohlich stated compensation for the Town Commission should be paid at the end of the fiscal year. Mr. McCall suggested quarterly compensation payments be allocated to the Town Commission.

There was a consensus to make quarterly compensation payments in the amount of $500 to each Town Commissioner.

Mr. Persson advised this issue could be placed in Chapter 30 of the Town Code, as opposed to placing the information in the Charter.

E. Article II, Section 3(b)
Mr. Gotthainer read Article II, Section 3(b).

There was a consensus to approve the new language.

F. Article II, Section 5. Elections generally.
Mr. Green read Article II, Section 5; discussion followed. Mr. Green suggested eliminating a portion of Section 5; he stated regardless of the percentage received by the candidates, the top two candidates should appear on the General Municipal Election ballot.

Mr. Green asked that the following language be removed from Article II, Section 5: "Provided, should any one (1) candidate in the preliminary election receive a majority of all votes cast for a designated seat on the town commission, such candidate shall be declared elected without the necessity of being voted upon in the general town election and shall assume office at the same time and in the same manner as those elected in the general town election."

There was a consensus to remove language from Article II, Section 5, as suggested by Mr. Green.

G. Article II, Section 8. Judge of qualifications.
Mr. Persson advised the term "felony" was added to the existing language.

Mr. Farber questioned whether the term "moral turpitude" should be included in Article II, Section 8; discussion ensued.

There was a consensus to remove the term "moral turpitude" and parallel the Florida Statutes.

Public to be Heard
2. Commissioner John Redgrave's Comments
Commissioner Redgrave explained the Charter should be a very small document; administrative details should not be included in the Charter; he pointed out micro-management was not necessary. He submitted a copy of the Charter from the Cities of Sarasota and Gulfport and urged the Charter Review Committee to review the format used when the charters were written. He stated it was necessary to allow each Commission to determine the administrative rules under which the Commission would run. He asked the Charter Review Committee to consider a five member Commission with a three-year term.

Discussion continued with reference to the "bright line" which was necessary when dividing the Town Manager from the Town Commission with respect to duties, responsibilities, and powers.

Commissioner Redgrave asked the Charter Review Committee to review Article III, Section 2, Removal; subparagraphs (a), (b), and (c) were not necessary. He stated the Town Manager worked at the discretion of the Town Commission. Mr. Gotthainer noted the existing Town Charter was almost verbatim when compared to the Model City Charter with respect to the Town Manager and removal steps.

Commissioner Redgrave expressed concern with the Longboat Key Ethics Commission as currently situated; however, several small cities were dissatisfied with the State Ethics Commission. He stated the Florida League of Cities was actively working on eliminating the State Ethics Commission. He suggested the Charter Review Committee consider the use of a Special Master.

Commissioner Redgrave referred to Article V, Town Finances; discussion ensued. He stated Article V could be simplified in the Charter; duties and reports should be indicated in an Administrative Code; however, it was necessary to specify the bonding authority in the Charter.

Commissioner Redgrave referred to the Government in the Sunshine Law; discussion followed concerning E-mail and Fax communications; issues would be expedited if technological means of communications were permissible.

Commissioner Redgrave inquired as to why the Charter was developed without a parliamentary authority. He stated most of the local municipalities used the *Robert's Rules of Order, Newly Revised*; the Town Charter did not reference a parliamentary authority.

Discussion was held concerning the establishment of one set of uniform procedures which every Board would follow.

There was a consensus to consider Commissioner Redgrave's suggestions during the review of the Charter.

3. Article II Review

A. Article II, Section 1, Commission districts.

Mr. Farber read Article II, Section 1; discussion ensued concerning redistricting, percentage of registered voters in each district, and the district boundaries.

There was a consensus to obtain additional information from the Town Clerk concerning redistricting and district boundaries, and further discuss the issue at the 3-23-98 Charter Review Committee meeting.

B. Article II, Section 11, Mayor and vice-mayor.

Discussion on Article II, Section 11, was held concerning the mayor's term of office. Mr. Farber pointed out the necessity of continuity on the Town Commission; he suggested electing a mayor and a mayor-elect instead of a mayor and vice-mayor. Mr. Green stated the seated Commission should be able to select a mayor and vice-mayor in accordance with their wishes. Mr. Drohlich stated an ordinance was adopted which reflected the mayor's term; it was not necessary to amend the Charter to include the mayor's term.

There was a consensus not to include the mayor's term in the Charter.

C. Article II, Section 12, Functions and powers of mayor.

Mr. Green read Article II, Section 12; discussion ensued. Mr. Brown suggested simplifying Section 12; he noted the mayor should have no authority outside of presiding during the meetings and signing legal documents. Mr. Green stated Longboat Key had a weak mayor system; he asked if the mayor were allowed to propose a motion. Mr. Farber replied the mayor could hand the gavel to the vice-mayor and propose a motion. He noted the Charter should specify the duties and responsibilities the mayor had; he stated no change was necessary.

Mr. St. Denis referred to Article II, Section 12, and expressed concern with allowing the mayor to take command of the police and govern the Town by proclamation during times of grave public danger or emergencies. He stated there were internal procedures established for emergencies. Discussion was held concerning what constituted an emergency and whether the mayor would take command of the police.

Mr. Persson advised the mayor could provide advice and consent; however, the Town Manager would be familiar with the basic internal procedures. Mr. Brown expressed concern with placing anyone over the Town Manager during an emergency situation. Mr. Farber pointed out the mayor was the official elected to represent the Town and should be included in emergency procedures. Mr. McCall stated the Town Commission would be informed on the issue; the Town Commission had to declare the emergency. Further discussion ensued concerning the Town's evacuation policy.

Mr. Drohlich suggested amending the language to reflect that the mayor would take command by proclamation during an emergency, but shall not have governing authority over the police and fire departments.

Mr. St. Denis advised the relationship between the Town Commission, Town Manager, and staff would not change during emergencies; policies would be instituted and decisions would be made based upon the changing circumstances.

Mr. Farber stated the emergency plan did not exist when the Charter was written; the Charter should refer to the emergency plan; the mayor should place the emergency plan into action.

There was a consensus to remove the following from Article II, Section 12: "The powers and duties of the mayor shall be such as are conferred by the town commission in pursuance of the provisions of this Charter, and no others."

A recess was called at 3:15 PM; the meeting reconvened at 3:25 PM.

D. Article II, Section 13. Relationship of town commission with administration.
Mr. Persson expressed concern with the Town Commission being involved with the daily management of the Town; the "bright line" should divide the Town Commission from dealing with policy; the Town Manager was responsible for running the Town.

Mr. Green referred to Article II, Section 13 (a) and explained the different ways it could be interpreted; discussion ensued. Mr. Rothenberg stated Article II, Section 13(b) allowed the Town Commission to request information from staff.

Mr. Brown pointed out the information should be disbursed through the Town Manager's office. Mr. St. Denis advised staff was directed to inform the Town Manager when information was requested by the Town Commission; this protected the Town Manager, staff, and the Town Commission . Mr. Rothenberg stated management style could not be legislated.

Mr. Brown suggested adding the following language to Article II, Section 13: "The Town Commission is responsible for establishing policy and overall guidelines for the Town; however, the Town Manager is responsible for operating all departments of the Town within the established policy."

There was a consensus for the Town Attorney to write a policy statement for Article II, Section 13.

Mr. Green suggested Article II, Section 13, (a) and (b) should be written in a positive manner; he asked whether the Town Clerk should be removed from Article II, Section 13(a).

Mr. Persson advised the Town Clerk position was unique; the Town Clerk had a certain relationship with the Board; however, the Town Clerk should not be in a position that was autonomous from the Town Manager.

Mr. Brown read Article II, Section 13, (c); discussion ensued concerning the removal of employees.

There was a consensus to eliminate Article II, Section 13(c).

4. Adjournment

The Charter Review Committee Meeting was adjourned at 3:40 PM.

Submitted by: Jo Ann Dunay-Mixon

Jo Ann Dunay-Mixon, Deputy Clerk-Minutes