

CITY OF WINTER PARK  
CHARTER REVIEW ADVISORY  
COMMITTEE  
FINAL REPORT AND  
RECOMMENDATIONS

SEPTEMBER 20, 2019

**CITY OF WINTER PARK  
CHARTER REVIEW ADVISORY COMMITTEE  
FINAL REPORT**

**INTRODUCTION**

The Winter Park City Commission appointed a Charter Review Advisory Committee (CRC) to review the city's charter and make recommendations for changes deemed advisable. The members of the Charter Review Advisory Committee are:

Mr. Steve Brandon, Ms. Marjorie Bridges, Ms. Lisa Coney, Ms. Mary Daniels, Ms. Amanda Day, Mr. James Johnston, Mr. Bud Kirk, Jr., Mr. Lawrence Lyman, and Mr. Nick Pope.

The city contracted with Ms. Marilyn Crotty to facilitate the process. City Clerks Cindy Bonham and Rene Cranis served as secretaries to the committee and recorded the minutes. Ms. Kim Breland, Planning Department, also assisted with this task. City Attorneys Dan Langley and Kurt Ardaman provided legal assistance throughout the process. The CRC held ten meetings between April 23, 2019 and September 20, 2019. All meetings were publicly noticed with opportunities for comments from the public at each.

**PROCESS**

The Charter Review Advisory Committee adopted the following guidelines which were followed throughout the process:

- Start meetings on time/end meetings on time.
- Each meeting will last two hours, beginning at 6:00 p.m. and ending at 8:00 p.m.
- Consensus decision making will be used throughout the process with at least 75% of the members of the Committee agreeing on recommendations to forward to the City Commission.
- Issues that have been decided upon may be readdressed with the approval of 75% of the members of the Committee.
- This will be a facilitated process with no designation of a Committee Chair or Vice Chair.
- Time will be included on each agenda for public comment; once near the beginning of the meeting for approximately 10 minutes and again before adjournment for another 10 minutes. Speakers will be limited to two minutes each. An hour will be set aside for public comment at the third meeting (May 28)

and another hour for public comment will be included at a meeting near the end of the process.

- Members of the Committee will notify City staff in advance if they are unable to attend a meeting.
- Participation of members by telephone will be allowed if a quorum is physically present

The members of the CRC were provided copies of the “Model Charter, Eighth Edition” published by the National Civic League to use as a reference. Ms. Crotty provided additional background information on specific issues that were addressed.

The attached revised charter and report was approved by a unanimous vote of the seven CRC members present at its meeting on September 20, 2019.

## RECOMMENDATIONS

The CRC reviewed the current Winter Park Charter that was last reviewed in 2009. The following is a brief description of the changes the CRC agreed upon, setting forth the rationale for the changes.

**General Provisions** – Language throughout the Charter has been revised to be gender neutral.

### **Preamble**

The preamble to the charter was amended to include the words diverse and inclusive in the third sentence.

**Article I.** Change the title of this article from Generally to **Powers and Form of Government** which more accurately describes the content of this article.

**Section 1.01.** – Change title from Creation and Powers to **Creation, Powers, and Construction.** Add the following language to this section: The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article. This language clarifies the powers of the city will be interpreted in favor of the city and that the general power of the city is not limited.

**Section 1.03.** Change the title of this section from Charter Amendments to **Form of Government** and add the following: The City of Winter Park is a municipal corporation with a Commission-Manager form of government. This clearly identifies the city as a Commission-Manager form of government.

The existing Section 1.03 Charter Amendments is moved to Article V.

**Section 2.03.** Change title and add forfeiture process to assure that any elected official charged with forfeiture of office will receive due process.

Sec. 2.03 Judge of Qualification, Forfeiture, and Election of Members.

The City Commission shall be the judge of the qualifications of its Members and of the grounds for forfeiture of office, subject to review by the courts. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence. The City Commission shall use the following procedure when forfeiture of office for one of its members is considered:

- The accused Commissioner shall not be entitled to participate in the deliberations or decision in relation to the Commissioner's suspension or removal.
- A Mayor or Commissioner may only be removed from office by an affirmative vote of at least three (3) members of the existing membership eligible to vote for such action.
- Written notice, approved by at least three (3) members of the existing membership of the City Commission that are eligible to vote on the matter, must be delivered to the accused Commissioner who shall have an opportunity to be heard and defend against the accusation.
- Subsequent to written notice being delivered to the accused, the Commission by an affirmative vote of no less than three (3) of the members eligible to vote for such action, shall have the authority to suspend a Commissioner pending the disposition of charges for removal.
- The accused Commissioner shall have the right to defend against the charges as provided in this Section.
- Where a suspension of a Commissioner occurs pursuant to this section of the Charter, the suspended official shall have the right to an immediate hearing upon demand to determine if there is sufficient evidence to establish the following two elements: (1) that probable cause exists to believe that the charges are true; and (2) that, if true, the charges would be grounds for removal. This hearing shall be held and the matter decided by the City Commission. The rules of procedure shall be the same as those which apply to the hearing for removal.
- If the City Commission does not find by an affirmative vote of at least three (3) of the existing members of the Commission that are eligible to vote on the matter that the evidence produced at the hearing is sufficient to establish the aforementioned two elements, the suspension shall terminate immediately and the official shall be reinstated pending a final hearing on removal.
- A final hearing for removal must take place and a decision rendered within ninety (90) calendar days after receipt of the above-mentioned written notice unless both the City Commission, by majority vote of Commissioners eligible to vote on the matter, and the accused agree to extend the time.

- In order for the City Commission to remove the accused official from office, the Commission must find that the substantial competent evidence presented at the hearing supports the charges which are the basis for the removal proceeding.
- If, after the final hearing, the City Commission is unable to support such a finding by an affirmative vote of at least three (3) of the existing membership of the City Commission that is eligible to vote on the matter, any suspension of the accused shall terminate and the accused shall be reinstated to office for any unfinished portion of the official's term.
- During a hearing regarding suspension or removal, the accused shall have the right to present evidence and testimony and to cross examine witnesses.

The election canvassing board, as established under Section 3.04(e), shall be the judge of the election of the members of the City Commission, subject to review by the courts.

#### **Section 2.05. Compensation.**

Specify the base salary of the elected officials and provide for an annual increase or decrease based on the CPI. This will bring the salaries of Winter Park elected officials in line with like municipalities in the region and allow for gradual increases over time. Sec. 2.05. Compensation. The base annual salary of City Commissioners shall be \$12,600. The base annual salary of the Mayor shall be \$15,000. The base salaries will go into effect October 1, 2020. The annual salaries of the Commissioners and Mayor shall increase or decrease annually based on the change in the Consumer Price Index (all Urban Consumers CPI), not to exceed five (5) percent of the annual salary. All CPI increases or decreases will be effective October of each year. The percentage of change will be based on the CPI change from April to April. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

#### **Section 2.06. Functions of Mayor; Vice Mayor**

Changes the time for selection of Vice Mayor to the first regular Commission meeting after certification of all elections to allow for anyone elected in a run off to participate in the selection.

#### **Section 2.07. Vacancies; Forfeiture of Office; Filling Vacancies.**

- (b) Adds additional grounds for forfeiture of office to include violating the charter, conviction of a crime involving moral turpitude, and failure to attend three consecutive meetings without being excused by the city commission.
- (c) Changes the process for filling a vacancy if there are 60 days or less before a general election allowing the seat to remain vacant. If there are more than 60 days before the next election, the current process of appointment, by the Commission, to fill the vacancy remains.

### **Section 2.08. Procedure.**

- (a) Meetings. Changes the requirement for calling a special or emergency meeting from one member of the Commission to the Mayor or any two members of the Commission. Also changes the advance notice for special meetings from 24 hours to 48 hours which is more in line with opinions from the Attorney General and allows more time for notification of the public and elected officials.
- (b) Rules ~~and Journal~~. Deletes reference to keeping a journal for a written record of all official acts as current technology allows for other methods of record keeping.
- (c) Voting. Removes the requirement for the affirmative vote of three members of the Commission to be physically present to adopt an ordinance or resolution. Instead, allows for the three affirmative votes to be from members who are present either in person or through the use of video conferencing. This acknowledges technological resources now available.

**Section 2.10. Prohibitions.** Revises the section into three sub-parts for clarification; changes the language regarding interference with administration; adds a prohibition on holding other compensated office with the city during their term of office; and provides for the appointment of current and former elected officials to serve on regional or intergovernmental boards.

#### **Sec. 2.10. – Prohibitions.**

- (a) Appointments and Removals. No individual members of the City Commission shall in any manner dictate the employment or removal of an employee, but the Commission and any of its members may express its views and fully and freely discuss among themselves at a public meeting, or with the City Manager or, in the case of civil service employees with the Civil Service Board, anything pertaining to the appointment or removal of such officers of the city.
- (b) Interference with Administration. Except for the purpose of inquiries and investigations under Sec. 2.19. or asking questions and gaining information to assist the members in the formulation of sound policies, the Commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately.
- (c) Holding Other Office. No Commission member shall hold any other compensated City of Winter Park office or employment during the term for which the member was elected to the Commission. No former elected city official shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected.  
Nothing in this section shall be construed to prohibit the Commission from selecting any current or former member of the Commission to represent the City, without compensation, on the governing board of any regional or other intergovernmental agency.

### **Section 2.11. Ordinances in General.**

In subsection (a) Procedures for Adoption, the requirement for a majority of the City Commission to be physically present on at least two separate days to adopt an ordinance will be amended to delete the words “physically present” to be consistent with the proposed change to Section 2.08 (c) above.

In subsection (b) Action Requiring an Ordinance, (7) Convey or lease or authorize by administrative action the conveyance or lease of *any lands* is changed to *real property* of the city to include other city assets.

### **Section 2.17. Annual Financial Audit.**

Changes the length of the contract with an independent certified public accountant from three years to not more than five years. This provides for cost savings for the city.

### **Section 2.19 Investigations. New Section**

The City Commission may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

This allows for oversight of city departments by the elected officials.

### **Section 3.01. Nonpartisan Elections.**

Language is added to this section describing specific actions that are not allowed and allowing for fines and a procedure to be established by the city commission for violation of this provision.

(a) All qualifications and elections for the office of city commissioner or mayor shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation. Upon qualifying for office through the election, a candidate for the office of city commissioner or mayor shall not:

- (1) Campaign and or publicly represent or advertise herself or himself as a member of any political party,
- (2) Accept contributions from any political party.

(b) A candidate for commissioner or mayor who violates a provision of this section shall be liable for a civil fine of up to \$1,000 per violation. The City Commission shall adopt an ordinance describing the procedure to determine violations, provide due process, and set fines.

### **Section 3.03. Form of Ballots.**

This section is revised to conform with state law and the authority of the Orange County Supervisor of Elections.

Sec. 3.03. Form of Ballots.

City elections shall be conducted in accordance with the general election laws of the State of Florida, Chapters 97-106, as amended. The Orange County Supervisor of Elections may control the form of the ballot including the method of listing candidates for city commission and mayor elections and any other city election.

*The rest of this section is deleted.*

### **Section 3.04. Elections.**

Subsection (d) Poll Workers, is deleted in its entirety since this is controlled by state law and the supervisor of elections. Subsection (e) will be renumbered as (d).

### **Section 4.01. Generally.**

The title of this section will be renamed **City Manager** to more accurately reflect the content of this section.

(b) Appoint department heads and the city clerk subject to the confirmation by majority vote of the entire city commission. This clarifies that at least three commissioners must confirm appointments.

The following changes to subsections (d), and (e) delete some references to the Civil Service Code. It is not the intent of the CRC to abolish the Civil Service Code or Civil Service Board. Rather, the CRC recommends that the current Civil Service Code, established in 1967, needs to be updated and modernized. References to the role of the city manager in relation to the Civil Service Code should be included in the Code and not in the charter.

(d) Employ, appoint or remove all other city employees. The city manager may delegate this authority to department heads, but no employee will be hired or removed without the city manager's approval. Any removed noncivil service regular employee shall have the right to appeal such removal to an independent Personnel Review Board appointed by the city commission. In the case of employees covered by the Civil Service Code, ~~the department heads may employ or remove employees of their respective departments subject to approval by the city manager, but~~ such removed employees shall have the right to appeal under the provisions of the Civil Service Code. ~~This provision is not intended to modify or repeal the Civil Service Code.~~

(e) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided in this Charter, by the Civil Service Code, or by law. ~~The city manager shall have no operational control over the chiefs of the police and fire departments or members of those departments. The supervision, direction and control of the police and fire departments shall remain with the civil service board in accordance with the Civil Service Code.~~

### **Section 4.07. Police and Fire Departments.**

This section will be renamed **Civil Service Code**. Language regarding provisions of the current Civil Service Code will be deleted and be replaced by a requirement that the electors of the city adopt a Civil Service Code. This provides a stronger mandate for the existence of a civil service code than is currently provided. The substitute section reads as follows;



**Section 4.07. Civil Service Code.**

There shall be a Civil Service Code adopted by the electors. At a minimum, the Civil Service Code shall set forth the terms of appointing a Civil Service Board whose purpose is to review and make recommendations on standard operating procedures of the police and fire departments and to serve as an appeals board for any disciplinary action resulting in a suspension of more than two (2) days, demotion, or termination of any sworn police and certified fire personnel.

**Section 5.08. Action on Petitions.**

Change the time frame in subsection (b) for a vote of the city from not later than 60 days to not later than 180 days in order to allow adequate time to set up a special election.

**Section 5.10. Initiative, Referendum, Recall, and Charter Amendment.**

This is a new section that replaces Sec. 1.03. All language in 1.03 remains intact except in subsection (b) (3), the time frame for an election after certification of petitions is changed from not later than 60 days to not later than 180 days allowing sufficient time to set up a special election,

**Section 6.04. Schedule.**

This section will be deleted because it is obsolete. The section will be held in reserve.

**IMPLEMENTATION STRATEGIES**

This report and the revised Charter are submitted to the City Commission for its review. The Commission may accept all, some, or none of the recommendations in the report.

If the City Commission wishes to place any of the recommendations on the ballot at the Presidential Preference Primary on March 17, 2020, it will need to adopt an ordinance that will include the ballot language. The usual process of two public hearings on the ordinance with an opportunity for public comment will be held and final approval from a majority of the Commission will be required to place any items on the ballot.

If the Commission places the adoption of any charter amendments on the ballot, the CRC suggests the City act to enable the voters to fully understand the proposed changes. The Charter Review Advisory Committee recommends that the City fund a community education program consisting, at a minimum, of the following: printed informational brochures (possibly mailed with utility bills); public forums; access to copies of the proposed charter changes; information on the city website and social media; and a speakers' bureau to inform voters of the proposed changes.