

Charter Review Committee
City of Palmetto, Florida

Agenda

January 7, 2016—3:00 p.m.

1. Call the Meeting to Order
2. Old Business
 - a. Approval of December 3, 2015 Minutes
3. New Business
 - a. Review of Attorney Barnebey's changes to Section 23 of the Charter
 - b. Review of the language for the make-up of other City advisory boards/Discussion on the make-up of the Charter Review Committee, Section 26 of Charter
 - c. Further review of the City's Charter
 - d. Vote on list is as follows:
 - i. Term Limits
 - ii. Residency Requirements: Wards, At-Large, and Mayor
4. Adjourn

If any person desires to appeal any decision of the City Commission, CRA Board, or of any other Board of the City, that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS §286.0105).

The City of Palmetto does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or handicapped status in employment or in the provision of services. Handicapped individuals may receive special accommodation in services on forty-eight hours notice (FS §286.26). Anyone requiring reasonable accommodation for this meeting as provided for in the American with Disabilities Act should contact the City Clerk by telephone at 941-723-4570, fax 941-723-4576 or e-mail jfreeman@palmettofl.org or afoley@palmettofl.org.

POSTED: December 29, 2015

DRAFT
Charter Review Committee
December 3, 2015

Committee Members Present:

Wade Thompson, Vice Chair
Vicki Moore, Secretary
Eva Daniels
Phil Guercio
Ann Marshall
Bob Wilson

Committee Members Absent:

Alan Zirkelbach, Chair

Staff Present:

Mark Barnebey, City Attorney
Scott Rudacille, Chief Assistant City Attorney
Amber Foley, Assistant City Clerk

Mr. Thompson called the meeting to order at 3:00 p.m. and welcomed Ms. Daniels to the Committee.

Motion: Mr. Wilson moved, Ms. Marshall seconded, and the motion carried 6-0 to approve the November 12, 2015 Charter Review Committee minutes.

Leo Mills, Leo Mills and Associates, spoke in opposition against term limits for Commissioners and Mayors in the City of Palmetto.

The Committee discussed the residency requirements for wards versus that of the at-large seat. They agreed that it would be best to be consistent with 365 of legal residency for both the ward and the at-large seats.

Motion: Ms. Moore moved, Mr. Guercio seconded, and the motion carried 6-0 to extend the residency requirement for the mayor to more than 365 days and add this topic to the Committee's vote on list.

The Mayor Veto Section was discussed and it was determined by Attorney Barnebey that the section is written well; no further language needs to be added or deleted.

Motion: Mr. Guercio moved, Ms. Marshall seconded, and the motion carried 6-0 to take remove this discussion from any further meetings.

The Commission asked the Committee to review Section 20 that specifically discusses an employee running for office and unpaid leave. Attorney Barnebey explained that Section 20 specifically addresses when unpaid leave has to be used, for how long, and when the employee can return to work. He sees no need to add or re-write any of the Section at this time.

Motion: Mr. Guercio moved, Mr. Wilson seconded, and the motion carried 6-0 to remove this discussion from any further meetings.

Term limits was discussed in great length with Mr. Guercio explaining the research he performed. He opined three terms across the board would work best for the City. Other Committee members

disagreed with term limits for a City this size. Problems expressed included running out of enough candidates to run for Commissioners. Mr. Guercio pointed out that getting new candidates would be easier if they were not running against an incumbent. He opined getting new eyes and ears on the Commission could be a positive for the City.

Motion: Mr. Guercio moved, Ms. Marshall seconded, and the motion carried 6-0 to add term limits to the list of topics the Committee will vote on.

Attorney Barnebey presented Ms. Foley with a hand written draft of Section 23 of the Charter. Ms. Foley will clean up the draft and present it to the Committee at the next meeting.

In regards to Section 10, Vice-Mayor, it was discussed about the violation of Sunshine if they are acting as Mayor and have individual meetings with the Commissioners. The Committee considered what language could be added to the section to allow for the vice-mayor to have individual meetings.

Motion: Ms. Marshall moved, Mr. Wilson seconded, and the motion carried 6-0 to have no further discussion regarding vice-mayor and acting as mayor.

Ms. Foley discussed the make-up of the Charter Review Committee, as there are no specific guidelines in the current Charter. She explained that in the City's Code of Ordinances it does address the make-up of other advisory boards. Some things to consider would be residency requirements, relative to a Commissioner, serve on another City advisory board, have they served on the Charter Review before, should each Committee member be from a different ward and selected by a Commissioner of the ward, etc. It was asked that Attorney Barnebey draft language for the make-up of the Charter Review Committee. Ms. Foley will also provide a copy of the language of other advisory boards as written in the Code of Ordinances.

The last topic discussed was how to go about doing a review of the Charter. It was proposed that each Member review section by section and make notes if there is anything further they would like to see discussed or altered.

Motion: Mr. Guercio moved, Ms. Moore seconded, and the motion carried 6-0 to review the Charter section by section at the next meeting.

The next Charter Review Committee meeting will be on January 7, 2016 at 3:00 p.m. in the Commission Chambers.

Motion: Ms. Moore moved, Ms. Marshall seconded, and the motion carried 6-0 to adjourn the meeting.

Vice Chair Thompson adjourned the meeting at 4:05 p.m.

Minutes approved:

Vicki Moore
Secretary

Section 23.-Amendment; Referendum.

A Charter amendment may be initiated by (a) ordinance of the City Commission or (b) whenever there shall be presented to the City Commission a petition signed by ten percent (10%) of the registered *Electors* of the City as of the last *General Election* of the City, proposing an amendment to this Charter; except the boundaries of the City as indicated in Section 5 herein. Any ordinance or clearly set forth in full the proposed amendment, and the amendment shall be limited to a single subject if the proposed amendment to the Charter meets the requirements of this Charter and of general law, the proposed amendment shall be submitted to a vote of the *Electors* of the City at the next *General Election* or a *Special Election* call for such purpose. The simple majority of the votes cast at such election shall be sufficient for passage of the amendment submitted to referendum. Upon adoption of an amendment as provided herein, the City Commission shall have the amendment incorporated into this Charter and shall file the Charter with the Department of State. Amendments to this Charter shall take effect in accordance with Section 27 herein.

Sections 24 through 26 Unchanged.

General Employees' Board

Sec. 22-83. - Board of trustees.

- (1) The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this article are hereby vested in a board of trustees. The board of trustees is hereby designated as the plan administrator. The board of trustees shall consist of seven (7) trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed pursuant to the City Charter, section 16, mayor—powers and duties, two (2) of whom shall be members of the system, who shall be elected by a majority of the general employees who are members of the system, one (1) of whom shall be the city clerk, and two (2) of whom shall be chosen by a majority of the previous five (5) trustees as provided for herein, and such persons' names shall be submitted to the Palmetto City Commission. In the event the mayor or a member of city commission is appointed to the board, his duties as trustee shall be deemed ex-officio duties to his duties as mayor or commissioner. The sixth and seventh trustees shall have the same rights as each of the other five (5) trustees appointed or elected as herein provided and shall serve two-year terms unless either sooner vacates the office. Each resident trustee shall serve as trustee for a period of two (2) years, unless he sooner vacates the office or is sooner replaced by the Palmetto City Commissioner at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of two (2) years, unless he sooner leaves the employment of the city as a general employee or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. Current trustees who are serving three-year terms shall serve until the completion of the three-year term and may then be reappointed or reelected for two-year terms. DROP participants can be elected as and vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.
- (2) The trustees shall, by a majority vote, elect a chairman, vice-chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.
- (3) Each trustee shall be entitled to one (1) vote on the board. Four (4) affirmative votes shall be necessary for any decision by the trustees at any meeting of the board. A trustee shall abstain from voting as the result of a conflict of interest and shall comply with the provisions of F.S. § 112.3143.
- (4) The board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid from the fund at such rates and in such amounts as the board shall agree.
- (5) The duties and responsibilities of the board shall include, but not necessarily be limited to, the following:
 - a. To construe the provisions of the system and determine all questions arising thereunder.
 - b. To determine all questions relating to eligibility and membership.

- c. To determine and certify the amount of all retirement allowances or other benefits hereunder.
 - d. To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
 - e. To distribute to members, at regular intervals, information concerning the system.
 - f. To receive and process all applications for benefits.
 - g. To authorize all payments whatsoever from the fund and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
 - h. To have performed actuarial studies and valuations by the actuary selected by the board, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the system.
 - i. To perform such other duties as are required to prudently administer the system.
- (Ord. No. 575, § 3, 11-4-96; Ord. No. 04-822, § 3, 10-18-04; Ord. No. 2011-16, § 1, 8-15-11; Ord. No. 2013-08, § 2, 8-5-13)

Police Officers' Board

Sec. 22-173. - Board of trustees.

- (a) The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this ordinance is hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five (5) trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city commission, and two (2) of whom shall be members of the system, who shall be elected by a majority of the police officers who are members of the system. The fifth trustee shall be chosen by a majority of the previous four (4) trustees as provided for herein, and such person's name shall be submitted to the city commission. In the event the mayor, a member of city commission or the police chief is appointed to the board, his duties as trustee shall be deemed ex-officio duties to his duties as mayor, commissioner or police chief. Upon receipt of the fifth person's name, the city commission shall, as a ministerial duty, appoint such person to the board as its fifth trustee. The fifth trustee shall have the same rights as each of the other four (4) trustees appointed or elected as herein provided and shall serve a two (2) year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of two (2) years, unless he sooner vacates the office or is sooner replaced by the city commission at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of two (2) years, unless he sooner leaves the employment of the city as a police officer or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.
- (b) The trustees shall, by a majority vote, elect a chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.
- (c) Each trustee shall be entitled to one (1) vote on the board. Three (3) affirmative votes shall be necessary for any decision by the trustees at any meeting of the board. A trustee shall abstain from voting as the result of a conflict of interest and shall comply with the provisions of F.S. § 112.3143.
- (d) The board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid from the fund at such rates and in such amounts as the board shall agree. In the event the board chooses to use the city's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the board.
- (e) The duties and responsibilities of the board shall include, but not necessarily be limited to, the following:
- (1) To construe the provisions of the system and determine all questions arising thereunder.
 - (2) To determine all questions relating to eligibility and membership.

- (3) To determine and certify the amount of all retirement allowances or other benefits hereunder.
 - (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
 - (5) To distribute to members, at regular intervals, information concerning the system.
 - (6) To receive and process all applications for benefits.
 - (7) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
 - (8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the system.
 - (9) To perform such other duties as are required to prudently administer the system.
- (Ord. No. 679, § 1, 6-29-00; Ord. No. 04-823, § 1, 10-18-04; Ord. No. 06-901, § 1, 10-2-06)

Code Enforcement Board

Sec. 2-83. - Seven-member and two-alternate member code enforcement board and organization.

- (a) The mayor shall appoint a CEB consisting of seven (7) members to exercise the authority and powers set forth in this division. The mayor may appoint up to two (2) alternate members for the CEB to act and serve on the CEB in the absence of the respective CEB member.
- (b) Members and alternates of the CEB shall be residents of the city. Appointments shall be made on the basis of experience or interest in the subject matter jurisdiction of the CEB and membership, whenever possible, shall include an architect, a businessman, an engineer, a general contractor, a subcontractor, a realtor and the seventh member, as well as the alternate members, representing the public at-large.
- (c)
 - (1) The initial appointments to the CEB shall be as follows:
 - a. Two (2) members appointed for a term of one (1) year each;
 - b. Three (3) members appointed for a term of two (2) years each;
 - c. Two (2) members appointed for a term of three (3) years each;
 - d. Alternate members, if appointed, for a term of three (3) years each.
 - (2) After the initial appointment, appointment to the CEB shall be made for a term of three (3) years. A member may be reappointed for succeeding terms.
 - (3) An appointment to fill any vacancy on the CEB shall be for the remainder of the unexpired term of office. If any member of the CEB fails to attend two (2) of three (3) successive meetings without good cause and without receiving the prior approval of the chairman, the CEB shall declare that member's seat vacant, notify the mayor of same and the mayor, upon such information, shall promptly appoint a member to fill such vacancy.
 - (4) The members of the CEB shall serve in accordance with the provisions of this division. A member may be suspended and removed for cause by the city commission, upon recommendation of the mayor, after first being informed of the factual basis for such cause and having been given an opportunity to respond. If the city has established, or hereinafter establishes, by ordinance, a procedure for the suspension and removal for cause of members of boards, that procedure shall apply to and control the suspension and removal for cause of members of the CEB.
 - (5) The CEB shall adopt such internal procedural and operating rules as it deems necessary but not in conflict with the provisions of this division.
- (d) The members of the CEB shall elect from their number, a chairman and a vice-chairman who shall be voting members of the CEB. The presence of four (4) or more members of the CEB, or alternatives if such have been appointed, shall constitute a quorum of the CEB. Members shall serve without compensation, but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the city commission or as are otherwise provided by law.
- (e) The city attorney shall be legal counsel to the code enforcement officer ("CEO") and shall advise the CEO accordingly concerning the officer's duties, powers, jurisdiction, and authority. The city attorney shall assist the CEO by presenting cases to the CEB on an as needed basis. The city attorney shall not advise the CEO and the CEB simultaneously. The CEB may have independent legal counsel to advise it concerning its duties, powers, jurisdiction, and authority. The mayor, with consent of the commission, may appoint independent legal counsel to advise the CEB.

ARTICLE XII. - PLANNING AND ZONING BOARD

Sec. 12.1. - Establishment and composition.

The planning and zoning board shall consist of five (5) members with the two (2) currently vacant terms expiring in 2011 being eliminated. None of the members shall be employed by the city. The terms of office shall be staggered three-year terms. Members shall be appointed by the mayor from among persons in a position to represent the general public interest and confirmed by a majority of the city commission. Three (3) of the seats of the planning and zoning board shall be filled by legal residents of the city, as defined in the City Charter. The remaining seats of the planning and zoning board shall be filled by legal residents of the city, as defined in the City Charter, or by persons who own at least a ten (10) percent ownership interest in a business which has a local business tax receipt which business is within the city, and which business owns real property within the City of Palmetto.

(Ord. No. 04-828, § 3, 12-6-04; Ord. No. 06-899, § 2, 8-21-06; Ord. No. 06-903, § 2, 11-20-06; Ord. No. 2010-06, § 2B., 8-16-10)

Sec. 12.2. - Removal of members and vacancies.

Members of the planning and zoning board may be removed by the city commission where a majority of the members of the city commission feel that such action is in the best interest of the city. In case of vacancies occurring in membership, the city commission shall fill such vacancies within sixty (60) days. The person appointed by the city commission to fill a vacancy shall serve for the unexpired term of the original appointment.

(Ord. No. 04-828, § 3, 12-6-04; Ord. No. 06-899, § 2, 8-21-06)

Sec. 12.3. - Officers; rules of procedure; meetings; compensation.

- (a) *Officers.* The planning and zoning board shall elect a chair and a vice-chair from among its members. They shall serve for one-year terms.
- (b) *Rules of procedure.* The planning and zoning board shall adopt such additional rules as are necessary to conduct its affairs and in keeping with the provisions of this zoning code. The zoning administrator shall be the secretary to the planning and zoning board and shall be responsible for keeping the records of the board's actions, providing necessary background material, keeping a record of attendance, keeping a record of all official findings and determinations of the board, showing the vote of the members on each question requiring a vote or if absent or abstaining from voting, indicating such fact. The official actions of the planning and zoning board shall be a public record.
- (c) *Meetings.* The planning and zoning board shall meet on an as-needed basis. The board shall not transact any business at any regular or special meeting unless a quorum of three (3) members is present and every official action taken and every decision rendered by the board shall be approved by a majority of members present. If necessary, the board may continue or table any petition or case before it, provided such case be heard at a subsequent meeting not later than sixty (60) days after the meeting at which it was tabled.
- (d) *Compensation.* Members of the planning and zoning board shall receive no salaries.

(Ord. No. 04-828, § 3, 12-6-04; Ord. No. 06-899, § 2, 8-21-06; Ord. No. 2011-01, § 2, 2-28-11)

Sec. 12.4. - Powers and duties.

(a) *Planning.* The planning and zoning board shall serve in an advisory capacity to the city commission with respect to planning functions such as review of applications for development, annexation, zoning and comprehensive plan amendment. In furtherance of its function as a recommending body, the board shall have the following powers and duties:

- (1) To make recommendations regarding the acquiring and maintaining in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions, all relating to development within the city. Such basic information and materials may include maps and photographs of manmade and natural physical features of the area concerned, statistics on past trends and present conditions with respect to population, property values, economic base, land use and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the area and its various parts;
- (2) To recommend principles and policies for guiding development within the city;
- (3) To recommend whether specific proposed developments conform to the principles and requirements of the zoning code and the comprehensive plan;
- (4) To conduct public hearings and make recommendations to the city commission;
- (5) To keep the city commission informed and advised as to general planning matters;
- (6) To serve as the local planning agency for the city for the purposes of Chapter 163, Florida Statutes; and
- (7) To serve as the "tree board" for the city. In such capacity, the board shall have the following duties:
 - a. Working with the city planning and public works director, preparing an annual community forestry work plan for consideration by the city commission, which shall address planting, watering and fertilizing of the trees, dead and hazardous tree removal, safety pruning, and insect and disease control;
 - b. Working with the city planning director, preparing an ordinance which sets forth public tree policies for planting, maintenance and removal of trees and the recommended tree species to be planted; and
 - c. Working with the city clerk, annually preparing a budget recommendation to implement the community forest work plan.

(b) *Variances.*

- (1) The planning and zoning board shall hear and decide requests for variances from the provisions of the zoning code. The board shall approve, conditionally approve or deny applications for variances from the terms of the zoning code.
 - a. The planning and zoning board may authorize, upon appeal from the decision of the zoning administrator, such variance from the terms of this zoning code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this zoning code would result in unnecessary hardship.
 - b.