

1 **MINUTES OF THE MEETING OF THE ORANGE CITY CHARTER REVIEW**
2 **COMMITTEE**, held on Monday, June 2, 2008 at 6:00 p.m. in Council Chambers, 201 N. Holly
3 Avenue, Orange City.

4
5 **CALL TO ORDER**

6
7 The Meeting was called to order at 6:00 p.m. by Chairman Rasch and roll call was taken.
8

9 **ROLL CALL**

10
11 **PRESENT:** Paul Rasch, Chair; John Crowther; Bill DeVane (Late: arrived at 6:10 p.m.); Hugh
12 Strickland; Evelyn Robinson; Gary Blair and Joelle DeVane; City Clerk Deborah
13 Renner; City Attorney Bill Reischmann
14

15 **ABSENT:**

16
17 **1. Approval of May 28, 2008 Minutes**

18
19
20 **Mr. Crowther moved to accept the minutes as presented, seconded by**
21 **Mr. Strickland and passed by 6/0 voice vote.**
22

23 **2. Section 8.02 Commencement of Proceedings**

24
25 Chairman Rasch noted that Mr. Reischmann was to do some research regarding this section. Mr.
26 Reischmann advised that he and the City Clerk had researched this section in past charters and said
27 that it appears that this section had been taken directly from the Model Charter and that the missing
28 language is simply a typographical error. He recommended that the Committee take formal action to
29 correct the mistake.
30

31 **Mr. Strickland moved to correct Section 8.02 by inserting the language**
32 **from the Model City Charter, seconded by Ms. Robinson and passed by**
33 **unanimous 6/0 voice vote.**
34

35 *(Note: Section 8.02 will now read as follows: “A minimum of five qualified voters may commence*
36 *initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will*
37 *constitute the petitioners' committee and be responsible for circulating the petition and filing it in*
38 *proper form, stating their names and addresses and specifying the address to which all notices.....”)*
39

40 **Section 8.03 Petitions**

41
42 Mr. Crowther expressed that he thought a 15% requirement for signatures was better than 10%. He
43 questioned whether the requirement would apply city-wide or just by district. Mr. Strickland noted
44 that any ordinance adopted would apply to the entire city, not just a single district. He said that he did
45 not feel district considerations would apply in this instance. Mr. Crowther noted that if the 15% were
46 applied by district, it would create a heavier burden.
47

48 Mr. Reischmann read from the Model Charter, Page 49, which discusses the procedures for initiative
49 and Referendum. He said the Model recommends 5 to 10 percent of the registered voters be required

1 to sign the petition. The Model also recommends that Recall petitions require at least 10 to 20
2 percent. Mr. Reischmann noted that the latest version of the Model reduced the recommended number
3 of signatures required from equal or greater than 5%, but less than or equal to ten percent. He
4 speculated that the earlier 15% requirement found in the previous charter probably was a result of a
5 correspondingly higher number in the Model Charter. Mr. Reischmann advised that the 10%
6 requirement found in Section 9.02 is a statutory requirement and, therefore, must remain. He noted
7 that the Model Charter states that the percentage chosen must not be too easy, nor too burdensome.

8
9 Mr. DeVane arrived (6:10 p.m.)

10
11 **It was the consensus of the Committee to leave Section 8.03 as written.**

12
13 **Section 8.04 Procedure for Filing**

14
15 Mr. Crowther noted a discrepancy in that subsection (a) imposes a deadline of “twenty calendar days”
16 for the Clerk to certify the petition, while subsection (b) discusses a deadline of “twenty days” for the
17 Clerk to send a copy of the certificate to the petitioner’s committee by certified mail. He said that
18 these two references should be the same. Mr. Reischmann said that when the term “twenty days” is
19 used, it generally always refers to calendar days. Mr. DeVane asked Ms. Renner which she
20 preferred. She responded that business days would give more time to verify the signatures. Mr.
21 Reischmann noted that “business days” could create interpretation issues such as whether holidays are
22 included as business days. Ms. Renner agreed that calendar days leaves no doubt to what is being
23 referred to.

24
25 **Mr. DeVane moved to change the wording in the second reference to**
26 **“twenty days” to “twenty calendar days”, seconded by Mr. Blair and**
27 **passed by unanimous 7/0 voice vote.**

28
29 **Section 8.06 Action on Petitions**

30
31 Mr. Crowther noted the referral to Article IV in this section and questioned its purpose. Mr.
32 Strickland read from Article IV where it discusses the Council calling for an election by Resolution
33 and providing that resolution to the Supervisor of Election as official notice of the election at least 45
34 days prior to the election being held. Mr. Reischmann concurred.

35
36 **No changes were made to this section.**

37
38 **Section 9.02 Charter Amendment**

39
40 **It was the consensus of the Committee not to change Section 9.02 since**
41 **is follows a statutorily prescribed process.**

42
43 **Section 9.03 Compliance**

44
45 It was noted that Mr. Bob Storke had submitted suggested language for the addition of this section.
46 Mr. Strickland noted that on Page 55, the Model Charter proposes language that is much more
47 stringent and more like the language he originally proposed. Mr. Reischmann also noted that Section
48 2.09 (b) of the existing charter uses similar language. Mr. Strickland responded that Section 2.09 (b)
49 refers only to Council Members. He clarified that the intent was to include language that would cover

1 everyone working for the City, including appointed boards and committees.

2

3 Mr. Reischmann suggested that the language could be interpreted to include employees who are
4 already covered under the personnel policies and are subject to the direction of the City Manager, and
5 thus, could create a conflict. He specifically noted the proposed language which references “any
6 member of City Government” and cautioned that it may be too expansive.

7

8 Bob Storke came forward and said that his intent was to use language that would include everyone in
9 one spot.

10

11 Mr. Reischmann said that the personnel policies do cover violations of the charter. Mr. Strickland
12 expressed his support for the proposed language because “it would allow the Council to craft a
13 coordinated ordinance that would be appropriate to the various types of positions.” Mr. DeVane said
14 that Mr. Strickland’s language would supersede the authority of the Personnel Manager, the
15 Department Heads and the City Manager and stated, “And I don’t think that’s right.” Discussion
16 regarding what authority would be granted to the Council by this provision ensued. Chairman Rasch
17 expressed his understanding that the section would allow Council to set out a process.

18

19 Ms. Robinson asked whether this provision would impose the same standards on the volunteer board
20 members as it would paid staff. Mr. Reischmann responded that the personnel policies as currently
21 written apply only to paid employees who are under the direction and supervision of the City
22 Manager. In contrast, board appointees are responsible to the City Council.

23

24 Mr. Storke noted that everyone who takes an oath swears to uphold the Charter of the City and if that
25 is not done, there should be a penalty.

26

27 Ms. Robinson questioned whether volunteers can be held to the same standards as paid employees.
28 She noted that they are serving “at will” and Council should have the authority to terminate their
29 service at any time for any reason. Mr. Strickland noted that the language reads “knowingly violates”
30 and advised that that would have to be proved. Ms. DeVane noted that all sworn board members are
31 required to sign their oath of office. She referenced Section 3.01 D. on Page 7 of the current charter
32 and suggested that this may be a good place to add a provision that board members can be dismissed
33 for violating the charter. She said that everyone else is covered in other sections of the charter or
34 code.

35

36 Mr. Strickland disagreed that everyone else is covered. He said that the only action Council can take
37 against a charter officer for a violation of the charter is to terminate them. He felt that there should be
38 some options between ignoring the action or terminating the employee. Mr. DeVane disagreed that
39 Council would be required to terminate. He said that the law looks at matters on the basis of what a
40 “reasonably prudent man” would do and this would provide the option for additional remedies short of
41 termination.

42

43 Mr. Reischmann clarified that the procedures for handling violations by the Council are stated in
44 Article II, Section 2.09 of the Charter. Discipline for charter officers is handled in Section 3.01. He
45 advised that the City Manager is the only charter officer who has a contract. He said that the City
46 Attorney or City Clerk can be dismissed by the Council for any reason, however, specific processes
47 are set forth for the dismissal of the City Manager. In regard to Board Members, Mr. Reischmann
48 advised that termination of board members is sometimes addressed in the by-laws. Termination of the
49 general employees is governed by the Personnel Policies.

1

2 In response to a request from Chairman Rasch, Mr. Strickland clarified that he thought the Council
3 should have the authority to provide options which must be coordinated through a process. Ms.
4 DeVane said such a process is already provided in the personnel manual which is adopted and updated
5 by the City Council. She reiterated that the only people who don't have a step-by-step process are the
6 charter officers.

7

8 Mr. DeVane felt that this additional section was not needed. Ms. DeVane and Mr. Crowther agreed.
9 Mr. Crowther felt that it would be "unwieldy" to try to structure penalties for all potential violations.

10

11 **It was the consensus of the Committee that no action be taken on the**
12 **proposed language for Section 9.03.**

13

14 **Section 10.04 Deletion of Obsolete Schedule Items**

15

16 Discussion ensued as to whether the first sentence should refer to deleting from "this Article X" as
17 opposed to deleting from "this Charter." Mr. Storke noted that this schedule applies to the transition
18 from one charter to a revised version. Mr. Crowther concurred and withdrew his suggestion.

19

20 **Article X will remain as written.**

21

22 **Section 4.02 (b)**

23

24 Mr. Strickland noted that a change was made to Section 4.02 (b) in which a one-year restriction was
25 placed on redistricting. He stated that if the charter amendment was on the ballot and passed, the City
26 would be less than one year before the next election. He questioned whether language should be
27 added to initiate the amended charter if it is approved by the voters. Mr. Reischmann responded that
28 his recollection was that if Council wished to change the boundaries of a district, it must be done at
29 least one year before the election. Mr. Strickland said that if the revised Charter is adopted, it will be
30 less than one year before the next election and will be immediately faced with a conflict in the Charter.

31

32 **Mr. Strickland moved to amend the proposed new language in Section**
33 **4.02 (b) to read as follows: "(b) The City of Orange City, upon**
34 **approval of this Charter, shall be divided into five Council Districts**
35 **by an ordinance of the City. This ordinance shall comply with the**
36 **general laws governing district boundaries. Following each decennial**
37 **census, the City Council shall by ordinance adjust the boundaries of**
38 **the City Council districts according to general law. Thereafter, the**
39 **City Council may, at its discretion, adjust the districts provided that**
40 **any such adjustment will not take place less than one year before an**
41 **election. The Council may appoint a special commission to develop**
42 **district boundaries, use consulting firms specializing in the process**
43 **and/or use such other public governmental resources as are available**
44 **to develop a plan for districts and to adjust the district boundaries**
45 **when required."**, seconded by Mr. Blair and passed by 7/0 voice vote.

46

47 Chairman Rasch suggested that the Committee begin a section-by-section review to make sure no
48 areas were missed. Mr. Strickland suggested that all changes be reviewed and that the Committee
49 provide guidance for sorting the changes into ballot questions.

1
2 The Committee returned to Section 1.01 and proceeded with a comprehensive review of the changes
3 that were made, making sure that everyone's comments had received consideration.
4

5 Section 2.05 Compensation

6

7 Discussion ensued regarding what would happen if the council enacted a pay increase when there was
8 less than ninety days before the next election. Mr. Strickland questioned whether they would have to
9 wait for their entire four year term to expire before it could take place. Mr. Crowther questioned what
10 would happen if the time frame was not followed. Ms. Renner suggested that the pay increase could
11 never take effect because it was improperly adopted. Mr. Strickland stated that it would delay until
12 the next election in two years.
13

14 Mr. Strickland suggested the wording, "No ordinance may be adopted increasing their salary if there is
15 less than ninety days to the election..." Mr. Reischmann read the language in the Model Charter for
16 this item, noting that it does not have a ninety day requirement, it just states that the change shall not
17 be effective before the next election.
18

19 Ms. Robinson questioned whether at some time in the past, the issue of a raise for Council Members
20 was voted down on a ballot, but the raise was still given. Ms. Renner responded that a change in
21 Section 2.05 was part of an overall charter referendum that was presented to the voters with one "all or
22 nothing" ballot question. The referendum was defeated at the time, therefore, none of the proposed
23 changes were adopted.
24

25 In response to a request from Mr. Strickland, Ms. Renner read back the proposed language as follows:
26 "...but no ordinance may be adopted changing the Council Member's salary if there is less than
27 ninety days before the election."
28

29 **Mr. Strickland moved to amend Section 2.05 as follows: ".....but no**
30 **ordinance may be adopted changing the salary if there is less than**
31 **ninety days before the election. ~~increasing such salary shall become~~**
32 **effective until the date of commencement of terms of the Council**
33 **Members elected at the next regular election, provided that such**
34 **election follows the adoption of such ordinance by at least ninety**
35 **days."**, seconded by Mr. Blair.
36

37 Mr. Crowther noted that the language as proposed would also prohibit the Council from decreasing
38 their salary if they wanted to. Mr. Strickland suggested that this could actually be a benefit at times so
39 that Council could not decrease their salary just to have an influence on the election.
40

41 **Motion passed by 6/1 voice vote with Mr. Crowther voting "no."**
42

43 Section 2.06 Meetings

44

45 Changes made previously were reviewed. Mr. Blair referenced subsection (d) and questioned whether
46 there should be a specific time for this item. Ms. Robinson responded that the intent of the Committee
47 was to give the City Manager some leeway as to when the item should come forward to facilitate
48 scheduling.
49

1 **Section 2.07 Rules and Journal**

2

3 Ms. Renner requested that the reference to a “journal” be stricken from this section as it is outdated.
4 Chairman Rasch noted that the language in this section refers to “a journal” or “minutes” which allows
5 the use of either term. He recommended that for the sake of simplicity, this section remain as written.
6 No further changes were made to this section.

7

8 **Section 2.09 Qualifications, Disqualifications and Forfeiture of Office**

9

10 Mr. Strickland questioned how the requirement for a “supermajority of 5/7^{ths}” would be affected if
11 there was an absence at that meeting. Mr. DeVane responded that the “7^{ths}” refers to total members of
12 the Council, not just those in attendance.

13

14 **Section 2.11 Filling of Vacancies**

15

16 Discussion ensued regarding the difference between the use of “Mayor” vs. “Interim Mayor.” Mr.
17 Strickland suggested that it relates back to when the Mayor and Council served for two-year terms.

18

19 **Mr. Crowther moved to delete the word “interim” from Section 2.11**
20 **(b) (1), when referring to the Mayor, seconded by Mr. Blair.**

21

22 Mr. Strickland and Mr. Rasch clarified that the section in question applies only to the Mayor’s seat.
23 The special election refers to the Mayor’s seat and the Vice Mayor would return to his seat after the
24 election.

25

Both the motion maker and seconder withdrew their motion and second.

26

27 **Section 3.01 Council Appointments**

28

29 The previous changes to this section were reviewed.

30

31 Ms. Robinson questioned why the requirement to appoint the City Attorney by resolution was
32 removed. Mr. Reischmann responded that the process was made less formal. He advised that the
33 removal of any charter officer could be done at any City Council meeting by motion.

34

35 **Article IV. Nominations and Elections**

36

37 Mr. Reischmann noted that the Volusia County Supervisor of Elections is requesting that the cities
38 uniformly change their elections to even-numbered years, however, the Committee is recommending
39 that the City remain with odd-year elections. The committee members discussed the pros and cons of
40 even-year elections. Several felt the city’s issues could get lost on a large ballot, while others felt the
41 benefit of a larger turnout would outweigh that. It was the consensus of the Committee that this would
42 be an issue for the Council to decide.

43

44 **Section 4.12 Canvassing Board**

45

46 Ms. Renner requested that the language in the last sentence of this section be changed to provide for
47 certification of the election at a regular or special election.

48

49 **Mr. DeVane moved to insert the words “or special” into the last**

1 sentence of this section so that it reads, “The Council shall certify the
2 results of the election provided by the Supervisor of Elections at the
3 first regular or special council meeting following the election,
4 seconded by Mr. Blair and passed by unanimous voice vote.
5

6 Remaining Articles 7

8 The changes made to Articles V, VI and VII were reviewed.
9

10 Mr. Rasch advised that this concluded the review of the Charter. He spoke against presenting all of
11 the changes to the voters in one question. Mr. DeVane said that the amendments would not pass if it
12 were an “all or nothing” question.
13

14 Discussion ensued as to how to present the changes to the voters. Ms. DeVane suggested having
15 Council review the Committee’s recommendations prior to discussing specific ballot language because
16 they may choose not to accept all of them. After Council’s review a joint meeting could be considered
17 to discuss presentation on the ballot.
18

19 Mr. DeVane expressed that he felt the Committee’s work is done. Mr. Crowther concurred. Mr.
20 Strickland suggested that the Committee group like sections together for presentation to the Council.
21 He expressed his concern that they may not understand the document if presented in whole. Ms.
22 DeVane disagreed and stated that Council has been staying abreast of the Committee’s proceedings
23 and expressed her confidence that they will provide a thorough review of the recommendations. Mr.
24 Blair concurred with Ms. DeVane.
25

26 Mr. Crowther thanked the City Council for appointing him to the Committee. He said that he enjoyed
27 it.
28

29 Chairman Rasch expressed his agreement with Mr. Strickland, but noted that it appears they are not in
30 the majority. Ms. Robinson expressed her appreciation to the Council and said that there should be an
31 opportunity for a joint meeting at some point during the final review process. Mr. Strickland said that
32 he was asked by two Council Members to organize the changes prior to presenting them to Council.
33

34 Mr. Reischmann said that it is “not uncommon” to hold a joint workshop during a charter review. He
35 suggested that they may wish to consider hiring a facilitator if it is decided to proceed with a joint
36 meeting. He said that he and the City Clerk could pass the Committee’s recommendations along to the
37 Council at the next meeting on June 10th and ask them how they wish to proceed. Mr. Strickland said
38 that if Council desires the Committee to put together a package for their consideration, another
39 meeting could be scheduled for June 16th to do so.
40

41 It was the consensus of the Committee to present their findings to the Council at their next meeting
42 and to wait for their direction as to how they wish to proceed. Chairman Rasch said that he could
43 attend the meeting.
44

45 **5. Adjourn** 46

47 There being no further business, the meeting adjourned at 7:35 p.m.
48
49

1 Respectfully Submitted

Approved on

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3

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5 _____
Deborah J. Renner, CMC, City Clerk
