



## Charter Review Commission

Ocoee City Hall  
1 N. Bluford Avenue  
Ocoee, Florida

July 13, 2023

MINUTES

6:15 p.m.

- **Call to Order**

**Chair Forges** called the meeting to order at 6:15 p.m., in the Commission Chambers of City Hall, located at 1 N. Bluford Avenue. He led the Pledge of Allegiance to the Flag followed by a moment of personal reflection. **Recording Clerk Sibbitt** called roll and declared a quorum present.

**Present:** Chair Forges and Members Chacon, Lovejoy, Lowrie, and Alternate Member McTavish (1<sup>st</sup> Alt.), Alternate Member Butler (2<sup>nd</sup> Alt.). Also present were CRC Facilitator/Board Attorney Geller, and Recording Clerk Sibbitt.

**Absent:** Vice-Chair Sills

**Guests:** Mayor Johnson, Finance Director Roberts, and Procurement Manager Tolbert

- **APPROVAL OF MINUTES**

**Motion: Move to approve the June 29, 2023, Charter Review Commission Meeting Minutes as presented; Moved by Member Chacon, seconded by Member Lovejoy; Motion carried 5-0.**

- **DISCUSSION AND REVIEW OF CURRENT CITY CHARTER**

**Chair Forges** shared he would like to revisit any items they deliberated to be brought back for discussion before they proceed to new business. **CRC Facilitator/Board Attorney Geller** noted the request for the matrix to be color coded to reference anything that still needed to be addressed or readdressed, such as the items placed at the request of the Finance Director.

**Chair Forges** inquired about the changes to the qualifying period as requested by the Board. **CRC Facilitator/Board Attorney Geller** summarized the discussion they had on Section 5-3 - Qualification of Candidates, and the changing of the qualifying period during their last meeting; and further, summarized the update to the ordinance as requested by the City Clerk.

### 5-3. Qualification of candidates.

- C. Such qualification papers shall be filed and the qualifying fee paid at any time after 12:00 noon on the day which is the first Friday in December prior to the date scheduled for the election ~~five business days (excluding weekends and holidays) prior to the date which is 46 calendar days prior to the scheduled date of the regular municipal election of the year in which the election for such office is scheduled, but not later than 12:00 noon on the date which is the second Friday in December prior to the date scheduled for the election, 46 calendar days prior to the scheduled date of the regular municipal election of the year in which the election for such office is scheduled,~~ or such other 5 business day qualifying period for a regular, special, or general election as may be established by the City Commission by resolution. Should the last day upon which said qualification papers may be filed fall on a weekend or another day upon which the City Clerk's office is not open for business, then the deadline for said person to file qualification papers shall be extended to 12:00 noon on the next day on which the City Clerk's office is open for business.

**Motion: Move to approve the changes to Section 5-3 C. as presented by CRC Facilitator/Board Attorney Geller; Moved by Member Lowrie, seconded by Member Chacon; Motion carried 5-0.**

CRC Facilitator/Board Attorney Geller explained the proposed changes to C-45 which defines and clarifies regular, special and general elections.

### C-45. Election dates and terms of office

- A. Regular Elections. A 'regular election' is an election held at a regular interval to elect the office of Mayor or City Commissioner. Beginning in March 2021, regular municipal elections shall be held annually on the second Tuesday in March of each odd-numbered year...
- B. Special Elections. A 'special election' is an election that may be held to fill a vacancy on the City Commission pursuant to § C-17 or to approve of an ordinance by initiative or repeal an ordinance by referendum pursuant to § C-19.
- C. General Elections. A 'general city election' is any municipal election that is not a special election or regular election.
- D. ...Any person elected to the office of Mayor or the office of City Commissioner shall be sworn into office at 7:00 p.m. on the day of immediately prior to commencement of the next regularly scheduled City Commission meeting...

**Motion: Move to approve the changes to C-45 (a), (b), (c), and (d) as presented by CRC Facilitator/Board Attorney Geller; Moved by Member Alt. MacTavish, seconded by Member Lovejoy; Motion carried 5-0.**

Chair Forges recognized the Finance Department staff members in the audience and allowed them to present their proposed changes, which CRC Facilitator/Board Attorney Geller explained he had incorporated into his matrix.

**Finance Director Roberts** introduced herself and explained revised recommendations that she will be proposing which differs from what is in the matrix in C-20, C-24, and C-28, as changes were made after a recent internal staff meeting. Discussion ensued on the proposed recommendations presented.

**Motion: Move to reject the recommended changes to C-20, C-24, and C-28 as submitted by the Finance Director; Moved by Member Lovejoy, seconded by Member Chacon; Motion carried 4-1 with Alt. Member MacTavish opposing.**

**Finance Director Roberts** explained a modification to C-26 – City Attorney, which was not presented in the matrix, for which staff is recommending to not require the City Attorney to review all items specifically those under \$50,000 that is not presented before the City Commission, thus eliminating a charge from the City Attorney for the review. **Chair Forges** requested this be submitted to the board for future discussion and further review since it was not included in the matrix.

**Finance Director Roberts** explained the suggestion to C-18 Independent Audit which incorporates language that references Florida Statute 218.391 and gives the City Commission the power to determine the period for the accountant or firm.

#### **C-18 Independent Audit**

The City Commission shall provide for an independent annual audit of all city accounts *in conformance with the auditor selection procedures of § 218.391, Florida Statutes*, and may provide for more frequent audits as it deems necessary. Audits shall be made by a certified public accountant or firm of accountants who or which has no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The City Commission may designate such accountant or firm annually or for a period ~~not~~ *not exceeding three (3) years as determined by the City Commission*. If the state makes such an audit, the City Commission may accept it as satisfying the requirements of this section.

Discussion ensued on the proposed recommendation presented.

**Brad Lomneck**, *Ocoee Resident*, inquired if there are any additional costs to the City to run an RFP, and if there were any other areas in the Charter that references other professional services.

It was further questioned as to why this was in the Charter and not in the Code. **Finance Director Roberts** addressed all questions.

**CRC Facilitator/Board Attorney Geller** read aloud Florida Statute 218.391 to provide the Board an understanding of the Audit Selection Committee's powers. Discussion ensued.

**Motion: Move to approve the proposed change to C-18 as presented by Finance Director Roberts; Moved by Member Lowrie; Motion died for lack of second.**

**Member Lovejoy** recommended that **CRC Facilitator/Board Attorney Geller** review caps and provisions on other professional services and contracts to determine if they would agree on consistency. **Consensus of the Board was to have the CRC Facilitator review other professional services and bring this back for discussion at their next meeting.**

**CRC Facilitator/Board Attorney Geller** explained the City Charter comparison matrix he provided in their packet which incorporates the updated changes made during the June 29<sup>th</sup> CRC Meeting.

The Board discussed the following items within the comparison matrix:

- **C-8 – Powers of the City**

Discussion ensued on powers of the City and allowing exchange of property. Further explanation was given on the term “liberally construed” as being incorporated in C-8.

### **C-8. Powers of the city.**

The City of Ocoee shall have all governmental, corporate and proprietary powers and all other powers possible for a city to have under the Constitution and the laws of Florida as fully and completely as though they were specifically enumerated in this Charter. ~~Except as otherwise provided herein,~~ The following powers of the city shall be construed liberally and 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 powers granted to the city under the Constitution and the laws of Florida. The City of Ocoee’s powers include:

B. Property rights. To purchase, lease, acquire by eminent domain, exchange, or otherwise obtain, receive and hold property or any interest in property, whether real, personal or intangible, for such municipal or other public purposes as the City Commission may, by ordinance or otherwise, deem necessary and proper; to sell, lease, exchange, or otherwise dispose of said property for the benefit of the city to the same extent that natural persons might or could do, except as otherwise provided herein.

**Motion: Move to accept the proposed changes to C-8 and C-8 B. as presented by CRC Facilitator/Board Attorney Geller; Moved by Member Chacon; Motion died for lack of second.**

Discussion ensued on the exchanging of properties.

**Motion to reconsider: Move to reconsider the motion made by Member Chacon; Moved by Member Lovejoy; seconded by Alt. Member MacTavish; Motion carried 5-0.**

**Motion: Move to accept the proposed changes to C-8 and C-8 B. as presented by CRC Facilitator/Board Attorney Geller; Moved by Member Chacon, seconded by Member Lovejoy; Motion carried 5-0.**

***Recess 7:41 PM – 7:50 PM***

**CRC Facilitator/Board Attorney Geller** explained the proposed language on preemption, but advised this could be added to the City Code instead of the Charter.

C-8 Proposed language: *"If a city ordinance is challenged as preempted by County, State, or Federal law, the ordinance shall be construed as narrowly as required to avoid or minimize preemption by County, State, or Federal law. Any provision or portion of a City ordinance that is preempted by County, State, or Federal law shall be severed from the ordinance, provided that a purpose of the ordinance, as determined by the City, can be effected, thereby preserving the validity of the remaining provisions or portions of the ordinance."*

**Motion: Move to reject the proposed addition on preemption to C-8 as presented by CRC Facilitator/Board Attorney Geller; Moved by Member Lovejoy, seconded by Member Lowrie; Motion carried 5-0.**

**CRC Facilitator/Board Attorney Geller** explained the proposed language in Section C-49 Conduct of elections which allows the City Commission to set the dates of elections and qualifying by resolution or ordinance.

#### **C-49. Conduct of elections.**

The City Commission shall designate the places of polling for all city elections and shall give notice of all city elections in accordance with the laws of Florida. Except as otherwise set forth herein, the City Commission shall by ordinance provide for the printing of ballots, the conduct of elections, including absentee procedures, the canvass of returns, and all similar election details. Such ordinance shall, to the extent possible, ensure the secrecy of the ballot and the integrity of the poll. *The City Commission may set the dates of elections and qualifying by resolution or ordinance.*

**Member Chacon** suggested the proposed language to read, *"The City Commission may set the dates of elections and dates of qualifying by resolution or ordinance."*

**Motion: Move to accept the proposed language on C-49 as presented by CRC Facilitator/Board Attorney Geller and amended by Member Chacon; Moved by Member Lovejoy, seconded by Member Chacon; Motion carried 5-0.**

**Recording Clerk Sibbitt** inquired about the meeting dates of July 27<sup>th</sup> and August 3<sup>rd</sup>, and if the Board needed to meet on those dates. Discussion ensued about the outstanding research needed on C-18 Independent Audit, and the Board decided they would proceed with discussion so they could conclude with all outstanding items. It was

further discussed that they would like to hold a CRC Meeting on June 20<sup>th</sup>, so they could finalize the ordinance to be presented before the City Commission on August 1<sup>st</sup> for their review and comments.

**Brad Lomneck**, *Ocoee Resident*, commented on the residency requirement and suggested that the one-year requirement should have to be met on the first day of qualifying.

Discussion ensued on terms for professional services and research within the Code was conducted. The following amendment was recommended:

### **C-18 Independent Audit**

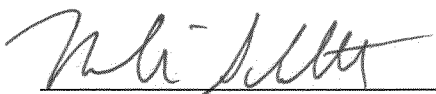
The City Commission shall provide for an independent annual audit of all city accounts in conformance with the auditor selection procedures of § 218.391, Florida Statutes, and may provide for more frequent audits as it deems necessary. Audits shall be made by a certified public accountant or firm of accountants who or which has no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The City Commission may designate such accountant or firm annually or for a period ~~not~~ exceeding three (3) years not exceeding five (5) years. If the state makes such an audit, the City Commission may accept it as satisfying the requirements of this section.

**Motion: Move to accept the proposed language in C-18 Independent Audit as follows, “The City Commission shall provide for an independent annual audit of all city accounts in conformance with the auditor selection procedures of § 218.391, Florida Statutes, and may provide for more frequent audits as it deems necessary. Audits shall be made by a certified public accountant or firm of accountants who or which has no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The City Commission may designate such accountant or firm annually or for a period not exceeding five (5) years. If the state makes such an audit, the City Commission may accept it as satisfying the requirements of this section.” Moved by Member Chacon, seconded by Member Lovejoy; Motion carried 4-1 with Member Lowrie opposing.**

- **PUBLIC COMMENTS** – Public comments made during Board discussion, as allowed by the Board Chair.

- **ADJOURNMENT**

The meeting adjourned at 8:49 p.m.



Melanie Sibbitt, Recording Clerk



Chair