

**TOWN OF DAVIE
CHARTER REVIEW BOARD
JULY 23, 2007**

1. ROLL CALL

The meeting was called to order at 6:36 p.m. Present at the meeting were Chair John Stevens, Vice Chair Judy Paul, Ray Adkins, Tom Green, Douglas Notman, Scott McLaughlin (departed at 8:03 p.m.), Howard Rechtman, Scott Spages, and Harry Venis. Also present were Town Clerk Muniz, Town Attorney Cherof, and Secretary Lorraine Robinson recording the meeting. Julie Aitken was absent.

2. APPROVAL OF MEETING MINUTES – JULY 2, 2007

Vice Chair Paul made a motion, seconded by Mr. Venis, to approve. In a voice vote, with Ms. Aitken being absent, all voted in favor. (Motion carried 9 – 0).

Mr. Muniz distributed a copy of proposed Charter changes for Section 6, the Administrative Department, created by Chair Stevens. Chair Stevens reminded the Board that he had earlier discussed the appointment of a Town auditor for financial auditing and performance auditing of Town staff. He explained he had consulted several municipal and county Charters to create his proposed change.

Mr. Muniz distributed copies of a proposed change submitted by Mr. Rechtman for Section 3.

3. REVIEW OF CHARTER

3.1 Section 1. Creation and Powers

No suggestions were made for this section.

3.2 Section 2. Corporate Limits

Vice Chair Paul stated this was automatically updated with the annexations. Mr. Muniz explained this was done by ordinance with the adoption of the district boundaries.

3.3 Section 3. Powers and Limitations

Vice Chair Paul asked if the language regarding home democracy and zoning changes should be included in this section. She noted that currently, when a developer had property rezoned and used flex units, he did not need to go through a land-use change.

Mr. Rechtman asked if they should look at limiting the Town's power regarding eminent domain to traditional governmental purchases such as roads, and disallowing the taking of real property for the purpose of giving it to a developer. Chair Stevens said the Town had passed an ordinance prohibiting this, and the State of Florida had passed a constitutional amendment addressing this issue. He added that a provision could be included in the Charter in the event the Florida Constitution was changed. Mr. Adkins stated that this had yet to be a problem in Davie. Chair Stevens said depending upon who was elected to Council, this could become an issue. Vice Chair Paul said she saw eminent domain issues not only on State Road 7, but also in the mobile home parks.

Chair Stevens asked that staff obtain the eminent domain restriction language from the Florida Constitution and State statutes that they could use to create the Charter change.

Regarding the home democracy issue, Vice Chair Paul noted that putting all zoning issues to referendum could become very expensive, but she felt there might be a way to word the Charter change to pertain to agricultural properties being rezoned as commercial or residential where they currently use flex zoning. Vice Chair Paul said she had originally looked at this for land-use but was concerned that the

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land-use had been circumvented. Mr. McLaughlin thought the elected officials were safeguarding this without having to resort to a referendum or zoning change.

Mr. Muniz agreed to distribute copies of the position paper on the subject from the Florida League of Cities. Vice Chair Paul recommended this item be put on the table for further discussion while the Board reads the backup information.

3.4 Section 4. Charter Review Board

Chair Stevens asked if anyone knew why there were only 120 days from the date of appointment to the date to submit recommendations. Mr. Notman felt they could do a better job if they were given six months instead of four. Chair Stevens suggested changing this to, "The Board shall submit its report of recommendations to Council within the timeframe required for the issues to be submitted to the Supervisor of Elections for the next election cycle." Vice Chair Paul agreed with this, feeling it would encourage the Town Council to appoint the Board earlier. Chair Stevens said the Board could still be limited to a certain number of days from their appointment date for submitting their report with the changes. Mr. Cherof said the language would be to the effect of: sufficiently in advance of the deadline for submitting the Charter reissues for the next election cycle, but no less than (a specified number of days). Mr. Cherof agreed to create language pursuant to this for the Board to consider.

Mr. Rechtman recommended Council appoint the Board in timeframe for them to convene by January 31st. Mr. McLaughlin stated appointments made prior to elections held in March posed problems for in-coming Council being represented on the Board.

Vice Chair Paul said she thought overall gender correction had been proposed by the last Charter Review Committee, but this had not been done. She felt the Board should point out these corrections as they noticed them.

3.5 Section 5. Form of Government

Vice Chair Paul thought someone had recommended a strong mayor. Mr. Rechtman said if the Board changed Section 6, they must go back and change Section 5. Vice Chair Paul said the roles of the Mayor and Town Administrator were scattered throughout the Charter, and they should pull out every reference to this and see how the changes would apply.

Mr. Rechtman noted that if there was a change to a Strong Mayor form of government, there must be substantial salary changes to allow Councilmembers to support themselves without other forms of income. Mr. Spages said he felt the Mayor and Council should be paid more, but did not feel paying them more required changing their titles or functions. He agreed the Mayor and Councilmembers were currently underpaid and that this prevented some good people from running for these positions.

Mr. Adkins pointed out that with a Strong Mayor, one person could be held accountable, and wondered if this was desirable or not.

Chair Stevens agreed that the Mayor and Councilmembers should be paid more. He did not agree that they did not get the best people running for office because of the pay. Chair Stevens believed that these positions should be filled by people who were willing to give up their time and money to serve the Town.

Mr. Venis agreed that the Mayor and Council should be compensated better for their work, but noted that when raises were included on a ballot, it had proven difficult to pass.

Mr. Notman felt the problem with a Strong Mayor form of government was when someone corrupt was elected as there was not the same system of checks and balances. He said he opposed

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changing the Town's form of government, but favored better compensation for the Mayor and Councilmembers.

Mr. McLaughlin was not in favor of a Strong Mayor.

Vice Chair Paul felt the Board should not set a specific salary, but base the salary on the average salary in the County. Mr. Spages suggested that to remove the politics have the salary increases start at a future date. Mr. Green added that the Broward County Commission pay raises were based on population.

Of all the Committee members, only Mr. Adkins was in favor of a Strong Mayor.

3.6 Section 6. Administrative Department

Chair Stevens felt any check over a certain dollar amount should be reviewed and approved in writing by the Town Administrator and the Finance Director. Mr. Muniz agreed to provide Board members with the purchasing policies created by the consultant.

Chair Stevens asked if any Board member had an issue with staff's recommended change to the language in Section 6(E.2). Mr. Muniz said the current language was outdated because it referred to the Town Clerk as being the town treasurer, when in fact the Finance Department performed the majority of those duties. The proposed language would not significantly change what the Town Clerk's duties were.

Since surety bonds would now come under the Finance Department, Mr. McLaughlin said that the following sentence should be deleted from this section, "adequate surety bonds as determined by the Town Council must be carried by the Town upon the Town treasurer and employees."

Mr. Adkins referred to page five regarding appointing and discharging authority, and asked if there was an appeal process for employees who had been discharged and felt it unjustified. If not, he suggested the Mayor be given the authority to appoint a five-member Appeals Board for this purpose. Mr. Muniz explained there was a Personnel Board, and the collective bargaining agreements addressed progressive discipline and treatment of employees during termination. This afforded employees a measure of protection against unlawful or unwarranted firings.

Vice Chair Paul suggested when making the presentation to Council, to include recommendations that could be made by ordinance rather than modifying the Charter.

No Board member offered comments regarding the staff's proposal for Section 6(H), Advisory Committees.

Chair Stevens said Ms. Aitken had a comment about the Town Attorney, which he felt could be easily remedied. Chair Stevens felt the Town got more for its money by hiring outside legal counsel rather than keeping an in-house attorney, but did not believe the Town should be precluded from hiring in-house counsel in the future if they desired. He suggested that the Board add language indicating the Town would not be prohibited from hiring in-house legal counsel. Mr. Cherof said regarding the compensation, recommendations should state that there would be no severance pay to prevent the situation that had occurred recently when the Town was paying two attorneys.

Vice Chair Paul referred to the section indicating that the Town Attorney would review ordinances, contracts, franchise agreements, etc. for legal correctness, and said that in the past, the review had ended with the legal correctness and had not extended to whether or not something was good for the Town or legal. Chair Stevens felt they could just strike the term "legal correctness" because an attorney had an ethical obligation to warn the Town if any action were potentially illegal.

Mr. Notman asked if Council had addressed the issue of the Town Attorney being precluded from representing Council in personal legal matters. Mr. Cherof said this was currently prohibited by contract. Chair Stevens suggested language similar to his proposed revision regarding Town auditor: "You shall

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have no personal interest, direct or indirect, in the affairs of the town government or any of its officers and/or employees.”

Chair Stevens referred to his proposed revision, and said it should be added in Section 6. He proposed having a Town auditor provide financial and performance audits of staff and all departments in Town government; to investigate any aspect of town government, staff or department heads, to be separate from the Town Administrator and staff and to report directly to Council. The Town Administrator and employees would be legally obliged to cooperate and accommodate requests pursuant to the auditor’s work. The auditor's purview would include: proper, legal collection and disbursements of money, staff and department's performance, and theft and fraud prevention. Chair Stevens had included the option for Council to either hire an in-house auditor or retain an independent firm.

Chair Stevens said he had taken most of this language from the Broward County Charter, and this was the model provision set forth by the National Association of Local Government Auditors. He stated that the County’s auditor was chosen by an independent board, not by the Broward County Commission.

Mr. Spages wanted to know the costs associated with hiring an auditor. Chair Stevens asked Mr. Muniz if there was a way to research the costs of other municipal auditors and provided Mr. Muniz with the parameters for the research.

Mr. Adkins noted that this position was more akin to an inspector general than an auditor. Chair Stevens agreed and said he did not care what the position was titled.

Mr. Spages said he would rather the position concentrated on financial auditing. Chair Stevens recommended limiting the powers of the Town Administrator and wanted outside input regarding efficiency. He remarked that especially with the Town’s form of government, where the Councilmembers relied upon what they were told by the Town Administrator, this would provide input from an individual whose job was separate and distinct from Town government.

Mr. Green could see using an outside entity, but worried that if it became an internal position, conflicts could arise. Mr. Rechtman said it would be up to Council to enforce the auditor's recommendations. Mr. Venis said he had witnessed internal auditing to be a very effective department in the private sector, and he felt it could be effective in local government as well.

Mr. Cherof referred to the section that discussed restricting the sale of surplus real property, and remarked that this opened it to competitive bidding, but gave no consideration to an adjacent property owner, to whom the Town might want to give priority. He explained that some cities had provisions giving preference to adjacent property's owner while this prohibited it.

3.7 Section 7. The Council, Mayor and Legislation

Chair Stevens agreed with staff's recommendation on Section 7(G).

Vice Chair Paul asked why in Section 7(K.2), ten days was selected. Mr. Muniz said this was a statutory issue.

Chair Stevens asked Mr. Muniz to explain Section 7(K.8). Mr. Muniz explained that currently staff was required to codify the Code every six months. This would provide the flexibility to do it more often if they desired.

Mr. Adkins suggested adding the following to the fourth line of Section 7(G), within the “thereafter”: “The Council shall meet regularly as its rules may prescribe and may hold special meetings, as it determines that more meetings were needed. Council meetings are suspended for the month of July. All meetings shall provide, at the beginning, opportunity for public input until all speakers were heard.”

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Vice Chair Paul agreed with removing the 30-minute provision for public input. Chair Stevens did not mind this, but he was concerned about adding public input at every Council meeting. Mr. Muniz said this language allowed the Council the flexibility to have as many or as few meetings as they wished. Mr. Spages said the current system, with public input the first meeting each month, was working.

Regarding Section 7(J), Salaries for Councilmembers and Mayor, Chair Stevens said he intended to write a proposal to increase their salaries. He said he was still trying to obtain a cost factor based on population and he would return at the next meeting with a concrete recommendation.

The Board discussed the waiting period for enacting the wage increases. Mr. Rechtman said they could increment the raises over a period of years, until the salaries met the average of other cities.

4. MEETING SCHEDULE

4.1 Schedule of Next Meeting – August 13, 2007

5. AGENDA ITEMS FOR NEXT MEETING

The Board discussed placing the following item on the August 13th agenda:

- Section 7. The Council, Mayor and Legislation

6. COUNCILMEMBER COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

7. PUBLIC COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

8. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 8:35 p.m.

Date Approved: _____

Chair/Board Member