

**CHARTER ADVISORY BOARD MEETING
HELD ON APRIL 19, 2011
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

**Chair Joe Capra
Vice Chair Carol Waxler (absent)
Board Member Nick Blount
Board Member David Collier
Board Member Amber Ducote
Board Member Kevin Henderson
Board Member Craig Mancuso
Board Member Sandra Newman
Board Member Nicala Penna**

**Also in attendance were:
City Manager Dan Hudson
City Attorney Paul J. Nicoletti
City Clerk Cheryl White (absent)
Deputy City Clerk Alice Lyons**

1. Approval of Minutes – March 15, 2011

MOTION: BOARD MEMBER HENDERSON MOTION TO APPROVE MINUTES OF March 15, 2011.

SECOND: BOARD MEMBER BLOUNT
MOTION APPROVED UNANIMOUSLY

Chairman Capra asked if the matter of the statutory definition of “Qualified Elector”.

City Attorney Nicoletti stated that “Qualified Elector”, was the correct term.

2. Consider Amending Charter Section 2.03

The Board agreed to change the language in the Charter to reflect the City Commission will meet at least once a month from twice a month.

City Attorney Nicoletti stated the Mayor addressed this matter, and stated that sometimes you don't need the second meeting in the month but this language will allow the Commission to have two meetings a month if needed.

Board Member Collier asked if it would be better to spell out on how the City could have less than two meetings a month, and recommended having it written in such a way that the Commission could reduce the number of meetings, to a single meeting, by a vote of the Commission.

City Attorney Nicoletti stated that It would read: "Twice a month unless otherwise determined by the majority of the City Commission."

Board Member Blount agreed with Mr. Collier.

3. Approval of Charter Sections 1.01 through 7.11

The Board agreed to move forward to discuss sec 7.04, and not go section by section.

City Attorney Nicoletti stated that most of this is statutory language, and how it deals with initiatives and referendums for statewide ballots. "The thing I think we were focused on is, what about this financial impact statement, and if the finance director is going to do it. Is it possible to get it to be, as I say reasonably clear and unambiguous?"

"I think it is, but at some level there has to be some trust, there has to be some reasonableness, I don't know."

Board Member Henderson stated that if the public felt there was something wrong with the financial statement, there needs to be enough time for the committee that opposes some amendment that is being evaluated to respond and reply and make it public so they're not caught unawares. A gross example would be the one about the sale or lease of waterfront property. In theory you could take all the lease payments that could be gained from that property, if the City were to lease at all, and say the financial impact is \$2 million dollars a year. But obviously the proponents would come back and say, wait a minute you're not leasing all that property now, why would you say that. As long as there is enough time for people to react to the financial statement, in such a way that they feel they're getting a fair shake, then that's fine but I don't see anything in here that says when that statement has to be made public, and how it gets disseminated, and so forth."

City Attorney Nicoletti stated that most of that has to do how the Supervisor of Elections, and her calendar for putting the things on the ballot. "It used to be that if you were a month ahead you were fine, now she is asking for stuff for September already."

Board Member Henderson asked when that information gets made public so, they can see what the financial statement says.

City Attorney Nicoletti stated explained that it would need to be made available within the time schedule of the election.

Board Member Henderson said that if we are going to include a financial statement be required, then we need to have a time frame as to the availability of the statement for public review prior to the election.

Chairman Capra said he wants to look at paragraph C, and felt Board Member Henderson had a good point.

City Attorney Nicoletti explained that the State does publish an impact statement, that's in the statutes. It conforms to it, but it's not a requirement that they have placed on us. "In other words, you could take C and just get rid of it. I don't think it's a good idea, I think the statute actually does it correctly. There should be some determination of what the cost of a measure is.

Board Member Collier asked if the Supervisor of Elections has signed off on the language for 75 words or less on the impact statement. "I know that in the past there was some concern over the size of the ballot."

City Attorney Nicoletti said it is spelled out in the statutes.

Chairman Capra said that in summary: We want a financial impact statement, in conformance to state law, prepared by the City's Financial Services Director in a reasonable clear ambiguous statement no more than 75 words in length, and given 30 days.....

Board Member Henderson expressed concern over the fact that a citizens committee could trigger an election in 120 days, and what it may take to produce a financial statement. He wants to assure the public has enough time to review it and comment on it.

Board Member Collier also expressed concern that if the statement is challenged by the group that wants it on the ballot, and states it false or deliberately construed with the cost. Where do we go from there?

City Attorney Nicoletti said it could be that both sides agree it cost too much or it doesn't, he then asked if the Board agreed to remove paragraph C, and just let it naturally occur.

Chairman Capra said he agreed to remove C, but some language should be added so there is some reason why the amendment is being considered. However vague you want to make the language, "but I think people come up and say they want to change something, and it cost the rest of the citizens millions and trillions of dollars, we just can't have that happening, and I think it is a waste of everyone's time and money."

Board Member Collier stated that if there was no thorough financial impact prepared by that person on the staff, that the City government and Commission rely upon to give accurate financial information. Does it produce an item coming onto the ballot, if the Commission does not give those instructions, for whatever reason, do we then have nothing coming from the government to describe, right or wrong the government's point of view of what the cost of this activity is going to be? I have seen Commissions in the past that may not have the will to give an honest appraisal of something being proposed because they just did not want to come up over the edge of the trench. Somehow to say that a document should be prepared and made available, without putting it on the ballot, maybe.... (Inaudible).

City Attorney Nicoletti explained that paragraph C only applies where it's an initiative, where someone put together a group and say's " We are going to require that this be on the ballot, and so the question then is, and they say it's only going to cost you X. And here you have that basically the government says; no it's going to really going to cost you a Y.

Board Member Henderson stated that if the Commission has a valid reason for not doing it and the reason is financial, that's the place for it to come out. That's how it should happen. If the citizens still want to adopt it in spite of the Commission, they should be able to. The statement that it's going to cost x amount of dollars, will now be on the ballot.

City Attorney Nicoletti explained the past initiative relating to the sale or lease of waterfront property was put together by the proposer and the language was as presented to the City. He said the B language, is set by the Commission but if it is an initiative group, than for sure they get to set the language up.

Board Member Collier said that the sitting Commission should determine for or against any item.

MOTION: BOARD MEMBER HENDERSON: MOVE TO REMOVE PARAGRAPH C FROM THE LANGUAGE IN 7.04.

SECOND: BOARD MEMBER COLLIER
MOTION APPROVED UNANIMOUSLY

City Attorney Nicoletti announced that he was not aware of any item that would require the Charter have a referendum in the upcoming election. He said the statutes allow for changes to the Charter for many amendments.

MOTION: BOARD MEMBER COLLIER: MOVE TO APPROVE CHARTER SECTIONS 1.01-7.11 AS AMENDED.

SECOND: BOARD MEMBER HENDERSON
MOTION APPROVED UNANIMOUSLY

4. Review Final Revisions to Sections 8.01 through 11.05

The Board began with section 8.01,8.02,8.03,8.04, 8.05, and approved the City Attorney's recommended language.

Board Member Collier stated there may be a need, as seen by those who propose the initiative or by the government that reviews what action would have to be taken if the initiative was passed, and some sort of agreement for a date other than the effective date when the votes are counted. That would seem reasonable to me for the put and takes that take place when you're putting something on the ballot. Or an argument coming forward that says you can't move as fast as this, that you would put specific language in the ballot as to an effective date. I think we could adjust this to simply say; unless the approved ballot item contains a specific date.

City Attorney Nicoletti recommended getting rid of : "and in effect". It is considered adopted upon certification, and it could have a different effective date than the date of adoption. That is just language that would be in the Ordinance, as proposed and as voted on, the effective date. Often when we write Ordinances we say it is effective upon adoption. But that is not necessarily what the initiative is; it could be effective January 1st. And an initiative cannot be retroactive due to strict rules relating to that.

Board Member Henderson asked "Why would some group of citizens decide to the Commission and turned down by the Commission be effective any less that as soon as possible?"

City Attorney Nicoletti explained that they might but "The effective date is in the Ordinance so they can tell us when they want it to be effective."

Board Member Henderson asked if that language was part of the 75 word limit.

City Attorney Nicoletti: "It would and if it is not stated that there be an effective date, then it would be effective immediately. All we need to do is get rid of: "and in effect". "If it is adopted, then it's adopted."

Board Member Henderson expressed concern over what was adopted at an earlier meeting regarding the widening or narrowing of streets. He suggested reviewing that language for residential streets in the city.

Chairman Capra said the language refers to public right of way and does not address streets.

Board Member Henderson said that it may seem simple but I think it would be a very hot item if you started narrowing or widening streets.

City Attorney Nicoletti stated the issue really would be do you do this by ordinance or Resolution.

Board Member Collier agreed to adopt it by Ordinance. He said it really needs to go through a formal public hearing process.

Board Member Henderson felt that the Charter should go back to the old language that states, basically whatever the Commission decides to do with streets, widening, narrowing, opening, closing is adopted by Ordinance.

Chairman Capra asked if section 9.01 would go back to the original language, and 9.02 would go back to the same language.

Board Member Henderson asked if opening of right- of-way requiring an Ordinance.

City Attorney Nicoletti explained the original amended language. In addition to this language there is language in the code as to how this is all done.

Board Member Henderson recommended leaving the historic language unless there is addition language to protect the public that may need to be added.

City Attorney Nicoletti said he would look at the language to better conform it.

Board Member Blount was not in favor of the word "Highway."

Board Member Henderson suggested adding back in streets and alleys because some of those smaller things are important to locals.

Board Member Blount gave the Colorado Avenue example and in order to accomplish this you covered by leaving the word right of way in there.

Board Member Collier stated that if we put back streets and alleys that would be roads in Stuart that are under our control, not highways or county roads. He agreed that the use of streets, alleys, and right-of-way covers it. He also suggested adding the word "City"

City Attorney Nicoletti clarified that it may read: City streets, City alleys, or any other City right-of-way. He said he would conform to read correctly. He understands it is Ordinance and everything we do with our streets has to be in the form of an Ordinance.

The Board agreed.

City Attorney Nicoletti said he would check with Municipal Code regarding the amendment or new code adoption date printed in the code book.

MOTION: BOARD MEMBER BLOUNT: MOVE TO APPROVE CHARTER SECTIONS 8.01-11.05 AS AMENDED.

SECOND: BOARD MEMBER NEWMAN
MOTION APPROVED UNANIMOUSLY

5. Schedule next meeting Date/Time

The Board agreed to meet as a transmittal meeting on May 17, 2011 at 5:50 p.m.

6. Comments from the Public

Eula Clarke came forward and introduced herself as the newly elected City Commissioner.

ADJOURNMENT 6:25pm