

## **CITY OF PALM BAY, FLORIDA**

### **SPECIAL COUNCIL MEETING 2022-15**

Held on Tuesday, the 14<sup>th</sup> day of June 2022, at the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 6:00 P.M.

#### **ROLL CALL:**

<b>MAYOR:</b>	Rob Medina	Present
<b>DEPUTY MAYOR:</b>	Kenny Johnson	Present
<b>COUNCILMEMBER:</b>	Randy Foster	Present
<b>COUNCILMEMBER:</b>	Donny Felix	Present
<b>COUNCILMEMBER:</b>	Peter Filiberto	Present
<b>CITY MANAGER:</b>	Suzanne Sherman	Present
<b>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>CITY CLERK:</b>	Terese Jones	Present

Councilman Foster participated in the meeting via teleconference.

**CITY STAFF:** Joan Junkala-Brown, Deputy City Manager; Angelica Collins, Budget Administrator.

Council concurred to have public comments heard for each proposal presented instead of each agenda item.

#### **BUSINESS:**

**1. Presentation by Philip Weinberg, Vice-Chair of the Charter Review Commission; consideration of the Charter Review Commission's recommended revisions to the City Charter.**

Mr. Weinberg presented the revisions as recommended by the Charter Review Commission (CRC). Numerous individuals spoke for and against the revisions as noted below. Members of the CRC provided their input.

#### ***Article III, Legislative – Section 3.03, Compensation***

The following revisions were proposed:

“Effective November 9, 2016 >>2022<<, the salary for the office of Mayor shall be at the rate of 20 >>25<< cents per capita, and the salary for the office of Councilmember shall be set at the rate of 40 >>20<< cents per capita. The per capita numbers utilized shall be the population as of the date of approval of this revision as set forth in the most recent population estimate of the Bureau of Economic and Business Research of the University of Florida. The annual salary of the Council shall not be increased by more than the increase in the Consumer Price Index, or the annual increase given to City employees, whichever is lower. The annual salary shall be reviewed during the City's annual budget process. No increase in salary shall become effective until October 1.”

Mr. Foster said that Council was currently earning less than minimum wage. He felt the salary increase would attract more people to want to serve on City Council. Deputy Mayor Johnson had no issue with any of the amendments proposed by the CRC being placed on the ballot. Mayor Medina felt if each councilmember was to receive a \$.10 increase, then the mayor's position should receive the same amount, not \$.05.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the proposed amendment to Section 3.03, Compensation.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea
Councilman Foster	Yea
Councilman Felix	Yea
Councilman Filiberto	Yea

***Article III, Legislative – Section 3.05, Prohibitions (Subsection 3.053, Holding Other Office)***

The following revisions were proposed:

- “(a) No >>current or<< former elected city official, nor any relative of such former elected city official, shall hold any compensated appointive city office or employment until, at least, two (2) years after the expiration of the term for which elected. This provision shall not apply to relatives of any current or former elected city official holding a compensated appointive city office or position of employment prior to November 9, 2016.

- (b) For the purposes of this section, "relative" shall mean an individual who is related to the >>current or<< former elected city official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the recommendation of the CRC. Mr. Foster felt the revision was anti-worker and did not support the request.

Motion carried with members voting as follows:

Mayor Medina	Yea
Deputy Mayor Johnson	Yea
Councilman Foster	Nay
Councilman Felix	Yea
Councilman Filiberto	Yea

***Article III, Legislative – Section 3.06, Vacancies (Subsection 3.062, Filling of Vacancies)***

The following revisions were proposed:

"When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled in accordance with the procedures prescribed by ordinance >>by appointment of the majority of the remaining members within sixty (60) days. If the majority of the remaining members of the City Council fail to fill the vacancy through appointment within the sixty-day period, a special election to fill the vacancy shall be called and held in a manner coordinated by the City Clerk with the Supervisor of Elections and adopted by resolution of the City Council. All vacancy elections will run concurrent with the regularly scheduled city elections. Appointments will be to serve until the next general election cycle.<<"

Mr. Filiberto did not support the request and felt it was fine as written. Mr. Felix felt voters should have a say on the item. Mr. Foster said it was a waste of money to have a special election at a cost of \$250,000 during the height of the pandemic. He said that

Palm Bay should have the authority to appoint just as the Governor has the same authority. Mayor Medina felt the current language was sufficient.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the recommendation of the CRC.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea
Councilman Foster	Yea
Councilman Felix	Yea
Councilman Filiberto	Nay

***Article III, Legislative – Section 3.08, Procedures (Subsection 3.081, Meetings)***

The following revisions were proposed:

“>>Beginning January 2023,<< the council shall have regular council meetings at least twice each month, >>except for June,<< at the city hall or other municipal building, at such times and places as the council may prescribe. Special meetings and workshops may be held at the call of any councilmember and, whenever practicable, upon no less than twenty-four (24) hours verbal and written notice to each member and the public. Such notice shall state the specific purpose or purposes of the meeting. No additional items shall be considered at such special meetings.”

Mayor Medina suggested one meeting in June and one in December. Deputy Mayor Johnson supported the language as presented and clarified that the proposed language did not mean that the city was going to shut down for a month or that staff or Council would not be accessible. Special meetings could still be called, if needed.

Mr. Foster said Brevard County, the School Board, the State of Florida and U.S. Congress were off in June. He said it would give staff a break to catch up or take time off.

Mr. Felix said this was really for staff due to the number of hours that were dedicated to meetings. For each Council meeting, the average amount of hours worked by staff was fourteen (14) to sixteen (16) hours. He supported the amendment.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the recommendation of the CRC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

***Article III, Legislative – Section 3.09, Petitions to Amend the City Charter or to Adopt or Repeal Ordinances (Subsection 3.092, Petitions)***

The following revisions were proposed:

“(1) Number of signatures. All petitions must be signed by at least ten percent (10%) of the electors of the city. They need not be in affidavit form. The petition to amend the charter must be signed by at least ten percent (10%) of the electors of the city of the registered electors as of the last preceding municipal general election or as provided in section 166.031 Florida Statutes as may be amended from time to time. Petitions to propose or repeal ordinances must be signed by at least ~~five percent (5%)~~ **>>ten percent (10%)<<** of the registered electors as of the last preceding municipal general election.”

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the recommendation of the CRC.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea
Councilman Foster	Yea
Councilman Felix	Yea
Councilman Filiberto	Nay

A brief recess was taken after which time the meeting resumed.

***Article IV, Administrative – Section 4.01, City Manager (Subsection 4.011, Appointment)***

The following revisions were proposed:

“The council shall appoint a manager by a majority vote of all councilmembers. The manager shall be selected solely on the basis of administrative and executive qualifications. At the time of appointment, the manager need not be a resident of the city

or state. However, should the manager change residency subsequent to his >>or her<< appointment, the manager shall reside within the city during his >>or her<< tenure.”

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the recommendation of the CRC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

***Article V, Qualifications and Elections – Section 5.04, Elections (Subsection 5.041, Councilmembers)***

The following revisions were proposed:

“A councilmember shall be elected to a specific seat on the council. The councilmember shall be elected by receiving the highest vote total of the votes cast in the election for a designated council seat. In the event of a tie vote in a special or regular election in which two (2) or more candidates are seeking the same designated seat on the council, a run-off election will only be held if ~~breaking the tie would~~ >>to<< determine the successful candidate. Each elective officer shall hold such office until a successor is elected and qualified. Absentee voting shall be permitted in all elections as provided by law.”

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the recommendation of the CRC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

***Article VI, Taxes and Fees – Section 6.01, Taxes***

The following revisions were proposed:

“(a) The council shall have full power and authority to levy taxes as authorized by law.

~~(b) Unless otherwise allowed by this subsection, the City Council shall not impose any ad valorem tax for city purposes at a millage rate which causes the budgeted revenue therefrom to the City to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%).~~

~~(c) Notwithstanding paragraph (b) of this subsection, the City Council may impose an ad valorem tax for municipal purposes at a rate which exceeds the limitations in paragraph (b) if a supermajority of the City Council concurs in a finding that such an~~

~~excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based and shall be valid for a single budget year.~~

~~(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraph (b) of this subsection, the City Council shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: 1) new construction; 2) additions to or demolitions in whole or in part of existing construction; and 3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation).~~

~~(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection."~~

Ms. Collins provided an overview of the three percent (3%) cap, including history and statistical data; how the cap rate and operating revenue were calculated; operating millage rates and associated revenues; tax bill millage rate impact; and a breakdown of the tax bill. Ms. Collins and Ms. Sherman answered questions posed by councilmembers.

Deputy Mayor Johnson and Councilmembers Foster and Felix supported the amendment.

Mr. Filiberto understood the handcuffs that the cap placed on the city but a supermajority had the power to remove the cap and if there was just cause, he would be part of that supermajority vote. However, he could not support the amendment and felt staff and Council needed to use the tools in place to solve any issues.

Mayor Medina was not sure that the voters would overturn the current language and would not support the request.

Motion by Mr. Felix, seconded by Mr. Foster, to approve the recommendation of the CRC.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea
Councilman Foster	Yea
Councilman Felix	Yea
Councilman Filiberto	Nay

**2. Consideration of proposed amendments to the City Charter.  
(Councilmembers Felix and Filiberto)**

Mr. Felix proposed the following amendments:

***Article V, Qualifications and Elections (Section 5.04, Elections; Subsection 5.042, Elections and Terms of Office)***

*“Elections and terms of office.* A primary election and a general election are to be held pursuant to law. The regular or general election of councilmembers shall be held on the first Tuesday after the first Monday of November. Councilmembers shall be elected to a four (4) year term of office and limited to ~~three (3)~~ **>>two (2)<<** consecutive four (4) year terms. For the purpose of this limitation, a partial term shall be considered a full term, except for appointments of less than one (1) year. No councilmember may appear on the ballot for reelection if by the end of the current term of office, the councilmember will have served (or, but for resignation, would have served) in that office for ~~twelve (12)~~ **>>eight (8)<<** consecutive years. All councilmembers shall be elected at-large. The mayor and two (2) other councilmembers, Seats 2 and 3, shall be elected in the same year as the presidential election. The two (2) additional councilmembers, Seats 4 and 5, shall be elected in the following even year.”

Mr. Felix did not like the idea of a career politician. He felt a shorter term would make room for new blood, new ideas, and younger generations that were eager to serve the city.

Mayor Medina did not believe that twelve (12) years was a career. He said it would also tie the hands of a councilmember that wanted to possibly serve as Mayor. He supported the current Charter language.

Mr. Foster did not support the request and said the voters determined if they wanted someone to remain in office. Mr. Filiberto did not support the request.



Deputy Mayor Johnson understood the intent but felt that someone may want to start off as a councilmember instead of jumping right in for the Mayor's seat and their time would be lessened with this proposal.

Motion by Mr. Felix to approve the amendment as presented. Motion died for lack of a second.

Mr. Filiberto proposed the following amendments:

***Article V, Qualifications and Elections (Section 5.02, Qualifications)***

"Candidates for the office of city council shall be a resident of the city and shall have been for at least two (2) years immediately preceding the election, shall be a registered voter residing at a city address >>; residency qualification shall be submitted to and verified by the City Clerk.<< , and >>The Candidate<< shall qualify for such office by complying with the Florida Statutes and in such manner as may be prescribed by ordinance and shall continue to be a resident and an elector of the city during the term of office."

Mr. Filiberto said there were issues in the past where it was unknown if the candidate was truly a city resident. He said neither the City Clerk nor the Supervisor of Elections would verify same, and the City Attorney had finally opined that it had to be challenged in court. He felt the process should be simplified.

Ms. Smith advised that the Clerk's duty was ministerial in nature and was only to review the documents on their face and for completeness. The candidates completed an oath affirming that they were residents of the city. If challenged, the courts had the ability to issue subpoenas and have the candidates produce evidence that they were residents and then the judge would make the final decision, not the Clerk.

Deputy Mayor Johnson said that many of the items presented by Councilman Filiberto were addressed through ordinances or handled administratively. He suggested that Councilman Filiberto meet with the City Manager or City Attorney and review the best ways to address each item.

***Article VIII, Public Safety (Section 8.01, Police Department)***

"There shall be a police department >>which shall consist of a chief of police and personnel, allowing to the best of the City's ability meet minimal municipal and state standards for the residents of Palm Bay<<."

Mr. Filiberto said there was a public safety issue in Palm Bay. He felt the City needed to meet municipal and state standards for the residents, which many include certifications for both police and fire.

Mr. Foster asked if the Police Department was certified. Ms. Sherman responded that they were an accredited law enforcement agency, but the Fire Department was not yet accredited. Mr. Foster said those standards should not be placed in the Charter.

Motion by Mr. Filiberto, seconded by Mayor Medina, to approve the proposed amendments for Article V, Qualifications and Elections. As there had been discussion for the first three (3) items presented, Mr. Filiberto asked for a motion for those three (3) items. Mayor Medina withdrew his second to the motion.

Motion by Mr. Filiberto to approve the first three (3) proposed amendments (Article V, Qualifications and Elections; Article VIII, Public Safety (Police Department and Fire Department)). Motion died for lack of a second.

***Article VIII, Public Safety (Section 8.02, Fire Department)***

“There shall be a Fire department >>which shall consist of fire chief and personnel, allowing to the best of the City's ability meet minimal municipal and state standards for the residents of Palm Bay<<.”

The item was discussed and voted on under Article VIII, Public Safety (Section 8.01, Police Department).

***Item 4 – “Citizen Bill of Rights***

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

1. *Convenient access.* Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Council to provide, within the City's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the City.

2. *Truth in government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

3. *Public records.* All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.

4. *Minutes.* The City Clerk shall maintain and make available for public inspection written minutes of all meetings and they shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.

5. *Right to be heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Council or any City agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.

6. *Right to notice.* Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. *No unreasonable postponements.* No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Council, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

8. *Right to public hearing.* Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent

administrative or legislative review and hearing. This provision shall not apply to the law department of the City nor to anybody whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. *Notice of action and reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

10. *Managers' and attorneys' reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.

11. *Budgeting.* In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Council's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

12. *Quarterly budget comparisons.* The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

13. *Adequate audits.* An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by a committee consisting of one city council member and two residents of Palm Bay; both appointment

and removal of the independent City Auditor shall be made by the City Council. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.

14. *Representation of public.* The City Council shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.

15. *Natural resources and scenic beauty.* It shall be the policy of the City of Palm Bay to conserve and protect its natural resources and scenic beauty, which policy shall include the preservation of wetlands, the abatement of water pollution, and of excessive and unnecessary noise.

16. *Nondiscrimination.* No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, disability, marital status, familial status, or age.

17. *Nondiscrimination in City Employment and Benefits.* The City of Palm Bay shall not discriminate in employment practices and benefits offered based upon an employee or applicant's race, color, national origin, religion, gender, sexual orientation, gender identity, disability, marital status, familial status, or age.

18. *Ethics in Government.* The public's confidence and trust in City of Palm Bay operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in its adherence to ethics laws. City of Palm Bay officials and employees are agents of the people and hold their positions for the benefit of the public—as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office regardless of personal considerations and interests, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern. In upholding the values of accountability and responsibility, all city officials and employees shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations.

19. *Improvement of Public Educational Facilities available to Palm Bay Citizenry.* It shall be the policy of the City of Palm Bay to cooperate with the Brevard County public schools, and with other appropriate governmental agencies, which will strive to improve the quality and quantity of public educational facilities available to the citizenry of the City of Palm Bay, Florida.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Palm Bay. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Brevard County circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.

(D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.<<"

Motion by Mr. Filiberto to approve the proposed Charter amendment, Citizen Bill of Rights. Motion died for lack of a second.

### **3. Consideration of dissolving the Charter Review Commission.**

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to dissolve the Charter Review Commission. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 10:35 P.M.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK