

DeFuniak Springs City Council
Special Meeting Minutes
January 7, 2020

The following members were present: Mayor Bob Campbell, Mayor Pro-Tem Robert McKnight, Councilmembers: Todd Bierbaum, Henry Ennis, Sr. and Wayne Graham. Also present were Mell Smigielski, City Manager; Debra Gibson, Finance Director; Clay Adkinson, City Attorney and City Clerk Maryanne Schrader. Councilmember Kevin Crystal and Kelly Schultz, Planning Director were excused. Charter committee members present J.B. Hillard, Jack Owen.

Mayor Campbell called the meeting to order at 6:00 p.m.

City Attorney Clay Adkinson stated the document presented to the Council is a red-lined version from the Charter committee for their review. The motion will be to instruct the staff to bring back the language for the referendum. This meeting will address what the Council wants to see in the Charter.

Charter Chair J. Owen went over the history of why the committee was formed. The revised Charter, term limits of elected officials, whether the City Marshal should be appointed or elected, and the Mayor's right to vote language was presented to the Council previously for review and comment.

In response to Councilmember R. McKnight, J. Owen responded that one item is to make the language gender neutral. He added in Section 7.4, the City Marshal changes are in red. The verbiage "subject to the command of the City Council or their designee" should be stricken.

In response to Councilmember R. McKnight, J. Owen responded that the recommendation was the City Manager shall be employed but the City Clerk should be appointed.

J. Owen updated the Council that there was open language regarding compensation, as the City attorney said the biggest issue is the nature for the desire of the citizenry that the provisions would be that the compensation should not change by increasing or decreasing during the current administration. The consensus was to not change the compensation during the term of office. Regarding pay raises, such as a cost of living, City Attorney Clay Adkinson replied that it should be a stand-alone provision to cover all the elected officials.

Discussion ensued regarding pay changes because of budgetary constraints and staggering terms. Councilmember T. Bierbaum added the discussion is what should be placed in the Charter. The compensation should not be included in the Charter, as the economy changes. Councilmember H. Ennis agreed.

Charter committee member, J.B. Hillard came forward to state the compensation should be set by ordinance, as the Charter sets direction. Councilmember T. Bierbaum added under the staggering of terms, the language states "assuming office following the next Council election". J.B. Hillard went on to say the Charter will be reviewed every 10 years. Councilmember T.

Bierbaum suggesting removing the last sentence. J. Owen said the intent is not to change the salary during the term. Discussion ensued on the salary question.

After the question on verbiage by Councilmember R. McKnight, J. Owen suggested adding “when necessary”. In reply to Councilmember R. McKnight, City Attorney Clay Adkinson said the mayor can currently only veto an ordinance and only after adoption and 2nd reading. He added he has a limited number of days to veto it. He referred the Council to Section 10 that lays out the process on the provisions of the current Charter and added Section 10 and 11 could be separated. Councilmember T. Bierbaum suggested placing Section 9 and 10 right after City Council that address the Mayor’s right to vote and then the City Marshal would be Section 5.

City Attorney Clay Adkinson said Section 7 is a codification issue, so formatting a change is not an issue. He added that terms of officers could be a separate section.

Discussion ensued regarding Section 8, regarding communication with the City Manager. Mayor Campbell said we are obligated to do personnel evaluations. Councilmember R. McKnight asked how personnel matters is defined, as it is not the Council’s job to interfere with the City Manager. He states his job as a member of City Council is to go to the city manager to report any issues with an employee. The City Manager would then follow up on the issue or concern. J. Owen said reporting under malfeasance is not the same as interference and added that the citizen input was to ensure the City Manager was not unduly influenced. He suggested striking the word “directly” and state “overtly attempt to influence”. Dr. M. Henderson stepped forward to state professional organizations have a non-interference clause, so we could look at how it is defined and suggested the Council can give their opinion to the City Manager, and he will handle.

After further debate, the Council agreed the presented Charter needed editing. Councilmember R. McKnight stated he respects the work of the committee, but the Council was elected to make the tough decisions on the next Charter.

Motion by Councilmember R. McKnight and seconded by Councilmember T. Bierbaum for the City Council appoint a subcommittee that makes up himself, Mr. Bierbaum assisted by the City Attorney to take the document presented and examine the language to come up with an improved version to present to the Council.

Dan Cosen suggested Mr. McKnight take the document for editing and present it, but Councilmember R. McKnight preferred legal assistance. D. Cosen said the money should be spent more wisely.

Robert Raymond said he attended every meeting and added the Charter should be reviewed every 20 years instead of ten.

Councilmember W. Graham said he would like someone from the community on the committee. Councilmember T. Bierbaum said the process of review will be in the sunshine and citizens will be able to attend and comment.

Vote: Councilmember T. Bierbaum: Aye, Councilmember R. McKnight: Aye, Councilmember H. Ennis: nay, Councilmember W. Graham: nay. Ayes 2, Nays 2. Mayor Campbell, aye. Ayes: 3; Nays, 2. Motion carried.

Mayor Campbell said the Council will have another opportunity to come back to it.

J. B. Hillard voiced his concerns that the product will be lessened by what the committee provided. The public should have more input on how they want to be governed. The three issues from the Charter Review committee were carved out for the Council to consider. The committee did a magnificent job in presenting the Charter. It is up to the Council to educate the public.

Mayor Campbell said some wording was cut and pasted from other Charter examples. He added the subcommittee will clean up the presented document. The public will review the final document.

Dan Cosen agreed with Councilmember W. Graham and asked that a citizen to be part of the committee. He thinks valuable resources could be tapped.

After further discussion on the merits of formal committee review, City Attorney Clay Adkinson said that there will be a public hearing and comment taken. He added the final document is then brought forward to the Council.

Councilmember R. McKnight said he thinks the missing part is a flow chart. City Attorney, Clay Adkinson replied that he can assist with putting the flowchart together. He added the Council will decide the wording of the referendums, formerly approve the referendums and the Supervisor of Elections will approve the wording. Then it will come back to the Council for final approval. We will also take public comment at the 1st reading.

Councilmember R. McKnight said the referendum language should not be set at the Council level. City Attorney Clay Adkinson added that the editing of the committee will not substantially change the content of the presented document.

Debate ensued on how many times the subcommittee should meet before returning the document to the full Council. City Attorney Clay Adkinson said the document will be edited in real time. He suggested going in linear order. The changes will go to the Council, so the tracking sheet will be the process.

Motion by Councilmember R. McKnight and seconded by Councilmember T. Bierbaum to rescind the motion to serve as the committee and prefers the full Council review it.

Vote: Aye, Councilmember T. Bierbaum: Aye, Councilmember R. McKnight: Aye, Councilmember H. Ennis: Aye, Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

Discussion ensued on whether to schedule a workshop or special meeting to wordsmith the document, as well as the merits of a small committee to go over the submitted Charter and bring it back for public and full Council review.

Councilmember R. McKnight said the preamble should be more specific. He mentioned the duties of the Mayor and Council, and added the mayoral duties are not specified in the same way. He said we should state the type of government we adopt and said the division of the legislative and executive forms should be specified. Councilmember R. McKnight said whether the Mayor should vote is key, as well as what the Council wants. There are great advantages of the Mayor not voting. City Attorney Clay Adkinson said if the Mayor does not vote, he can talk to the Council one on one. He would still be mindful of how he speaks to the Council.

Mayor Campbell said he has spoken to the Political Action Committee (PAC) office, so he cannot put a (PAC) together until the Council approves it. He can then put it in the radio and advertise the benefits.

D. Cosen came forward and asked Mayor Campbell his thoughts and believes he has the best interest of the city at heart. Mayor Campbell replied he would like to be removed from the legislative parts, as he cannot currently share information with the Council.

City Attorney Clay Adkinson reiterated the public must vote on the referendum, and the Supervisor of Elections wants clear language to place in the ballot language. He added this is not a situation where the public enacted the law. The State wrote the legislation giving the Mayor the right to vote in the 1960's. The Sunshine Law did not exist at the time, and it is the Attorney Generals' opinion that the Mayor is totally under the Sunshine Law, since he has voting power. He added it that the issue must be addressed on our level using our Home Rule authority. Councilmember R. McKnight read the Florida Attorney General's office opinion from 1985 stating the law is where the Mayor is in the Executive branch where he only has veto power.

J.B. Hillard said public input is needed.

James Hurley, City Marshal, stepped forward and suggested the Charter should state the elected marshal should serve as the Chief of Police.

J. Owen stepped forward and said the Mayor's right to vote should be separate from the Charter.

City Attorney Clay Adkinson there must be a clear definition of roles for the city officials.

Councilmember R. McKnight said he wanted to withdraw his previous motion because he did not feel he had support of the full Council.

Councilmember H, Ennis said the main thing is his respect for Mr. Owen and felt the committee worked hard on the document. Councilmember W. Graham said he would be in support but would like to see one citizen on the committee.

Motion by Councilmember R. McKnight and seconded by Councilmember T. Bierbaum that a subcommittee of the Council be comprised of a community member to be appointed by the Mayor. After City Attorney Clay Adkinson's suggested addition, the motion was reworded.

Motion by Councilmember R. McKnight and seconded by Councilmember H. Ennis to form a subcommittee of the Council to be comprised of Councilmember McKnight and Councilmember T. Bierbaum and a community member to be appointed by the Mayor whose purpose is to make necessary revisions of the draft of the City Charter.

Vote: Aye, Councilmember T. Bierbaum: Aye, Councilmember R. McKnight: Aye, Councilmember H. Ennis: Aye, Councilmember W. Graham: Aye. Ayes 4, Nays 0. All ayes. Motion carried.

City Attorney Clay Adkinson brought up the referendum language regarding term limits and whether the City Marshal should be an elected or appointed position. J. Hurley said he would prefer to keep it off the ballot, as he has not heard that anyone wanted it to be an appointed position. Mayor Campbell voiced his concern that in the past we have had unqualified people in the position.

J. B. Hillard suggested adding minimum requirements to hold the position. The definition should be clear for the marshal and police chief and included in the Charter. The consensus of the Council was to keep the language as it is now.

City Attorney Clay Adkinson recommended a method of balancing the minimum requirements and law enforcement credentials that could be added to the Charter with experience added to the ordinance.

Discussion ensued on whether the voters should decide whether they should vote for the City Marshal where the only requirements is to be over eighteen and live within the city limits or have the position appointed and have a larger pool of candidates.

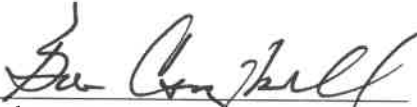
Dr. Henderson said the direction the Council is moving toward is better control. J.B. Hillard said the budgetary meetings control the direction of the police department. Citizen Paul Rushing said the citizen wants the right to vote for the marshal.

Dan Cosen as an affiliate of Coastal Connection, said Keith Nichols is all about informing the community and invites the Council to appear on his show to educate the public.

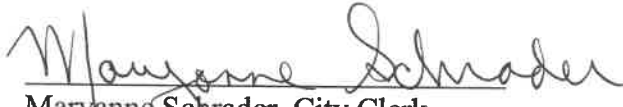
There was discussion that the public does not want term limits, as they will vote in the direction they want. Councilmember T. Bierbaum concurred with the comments. He said the right to elect a City Marshal should stand, and we do not need term limits, as they can vote the elected officials out.

Mayor Campbell said he will do his best to educate the public regarding the referendum on removing the Mayor's right to vote. Councilmember R. McKnight asked if the City Clerk would post a copy with markups before the meeting and asked to meet within the next two weeks.

Mayor Campbell adjourned the meeting at 8:55 p.m.


Robert "Bob" Campbell, Mayor

ATTEST:


Maryanne Schrader, City Clerk

