

Charter Review Special Committee
Meeting Minutes – Communications Media Technology
May 14, 2020

Councilmember R. McKnight called the meeting to order at 10:03 a.m. using Communications Media Technology Via Zoom. City Manager M. Smigielski called the roll and Councilmember R. McKnight, Councilmember T. Bierbaum, and citizen Doyle Redwine were present for the Zoom session.

Those present in Chamber: City Manager Mell Smigielski, City Clerk Maryanne Schrader and IT Administrator J. Deckard. Also, in attendance remotely: City Attorney Clay Adkinson, Deputy City Manager C. LeJeune and Chief J. Hurley.

Chair R. McKnight asked for a motion to approve the minutes of May 6, 2020.

Motion by Councilmember T. Bierbaum and seconded by Citizen Doyle Redwine to approve the minutes of May 6, 2020.

Roll Call Vote: Councilmember R. McKnight, aye; Councilmember T. Bierbaum, aye; and citizen Doyle Redwine, aye. All ayes. Motion carried.

Next, Chair R. McKnight asked for Citizens Comments. No comments were noted.

Chair McKnight stated the committee would go over the Powers and Duties of the Mayor, as well as the draft of the qualifications of the City Marshal. He mentioned the draft notes were distributed earlier.

Chair McKnight mentioned he had collaborated with the city attorney to come up with the following fifteen statements regarding the role of the mayor. It is a specification of the new duties for the mayor and added “leadership” should be included. He added voting duties of the mayor in a tie vote of the Council have been removed. He added the role of the mayor is separate from the administrative role of the city manager.

He went on with the following statements:

1. The mayor shall serve as the head of the executive branch of city government. Committee concurred.
2. The mayor shall be recognized as the head of city government by the governor for purposes of military law, for serving civil process, and for ceremonial purposes. The mayor shall sign all contracts ~~and other appropriate documents~~ on behalf of the city (Moved from number 8) Committee concurred.
3. Discussion ensued on number three. Councilmember T. Bierbaum suggested revising the last sentence starting with “heavily” and pointed out the mayor should not be focusing on the City Clerk, City Manager, or City Marshal. He said #4 plays into #3, so he would like to collapse the two. City Attorney Clay Adkinson suggested not placing broad language into the Charter.

City Manager M. Smigielski stated the second sentence should be scrapped, as the Charter should be succinct. He added it may constrain the skill set of a future mayor.

City Attorney Clay Adkinson agreed and added to be mindful when the words are included in the Charter. As an example - what if the elected future mayor stresses growth, but if the Council disagrees with the mayor's handling of it, the Council could be working against the Charter. He was concerned about the public bringing malfeasance charges if they do not think the mayor is fulfilling the role. The mayor's role is to advocate for the city and solutions to improve the city could become an argument.

Mayor Campbell said he likes the words "coordinate and provide leadership", as the public expects certain qualities.

The committee concurred to the suggested change of placing number 4 to replace the last sentence in number 3:

The mayor serves ~~are~~ as the sole elected city official whose primary role and responsibility is leadership, coordination, communication, and advocacy. The mayor shall ~~exhibit~~ seek knowledge, understanding and foresight of issues faced by the city and advocate for solutions that improve the city. ~~Among these three four roles and responsibilities, the Mayor shall heavily focus his/her activities upon the City Council, the city manager, the city clerk, the elected city Marshal, Walton County government, the State of Florida, the US Federal Government, and the public.~~

5. The Committee agreed to strike "duplicate" and add "include": The mayor's executive duties and functions are complementary to, but do not overlap or ~~duplicate~~ "include" the administrative duties of the city manager.

6. The mayor (*Suggested wording - While the mayor shall collaborate with the City Manager, he shall not interfere with his duties*) ~~shall be subject to the same prohibitions imposed on members of the City Council against interfering with, or dictating to, the city manager.~~ City Attorney Clay Adkinson said he will come back with some revised language, as the "same prohibitions" of the mayor pertaining to interference with the City Manager is not on the same level of the Council. The mayor's role, as he sees it, means there must be a working dialogue.

7. Discussion ensued about the expectation that the mayor should attend the meetings to communicate, coordinate, advocate or listen and discussed the appropriateness of using "liaison".

Mayor Campbell said he cannot attend every committee meeting and added to "attend on certain occasion". Chair R. McKnight suggested to maintain continuity instead of the word liaison.

City Attorney Clay Adkinson added the “Mayor shall act as a liaison”. This could include Boards and Committees of the city and intergovernmental entities. He would have the formal authority of the city. A liaison position does not require strict attendance. And add the maintain “continuity”.

Committee concurred on the following: The mayor shall ~~serve as a liaison~~ maintain continuity with other elected and appointed boards of the city. ~~including City committees.~~

8. The mayor shall sign all contracts ~~and other appropriate documents~~ on behalf of the city. After discussion, the committee agreed to move #8 as the second sentence of #2.

9. Discussion ensued on the need for #9, as we have an elected City Marshal. City Attorney Clay Adkinson informed this provision was part of a Charter that came into being when the city did not have a City Marshal. Committee agreed to remove #9. ~~In time of danger or emergency, the mayor, if authorized and directed by the City Council, will take command of the police, maintain order and enforce law.~~

10. At Councilmember T. Bierbaum’s request, #10 and #11 were combined. The mayor shall be the presiding officer at meetings of the City Council. The mayor shall exhibit leadership and ~~verbal skills~~ in conducting meetings of the City Council, including the appropriate use of the city’s method of parliamentary procedure.

Councilmember T. Bierbaum suggested removing “verbal skills”, as it is subjective and should not be in the Charter.

12. City Attorney Clay Adkinson suggested combining #12 and #13, and the committee concurred, as follows:

The mayor shall have no vote in matters of the City Council yet shall have the power of veto pertaining to the adoption of city ordinances. For resolutions passed by the City Council, the mayor shall have the power to return a resolution to the council for further review and consideration.

14. Chair R. McKnight stated #14 was a recommendation of the prior committee. The committee discussed the fiscal year start and voiced concern about stipulating a time because it may cause a Charter violation in case of an emergency. City Attorney Clay Adkinson suggested a less rigid wording, and the committee concurred, as follows:

The mayor shall deliver a “State of the City” address both verbally and in writing no later than the third regular meeting of the City Council following the beginning of the fiscal. ~~year at least once per year at a City Council meeting, within a period beginning October 1 but no later than November 30.~~

15. The mayor shall have the power and authority to perform duties conferred and imposed by the Charter.

Mayor Campbell said he liked the part of removing the right to vote in a tie and adding the power to veto to bring something back.

Chair McKnight turned the meeting over to Councilmember T. Bierbaum.

Councilmember T. Bierbaum said he has worked with the City Marshal on his changes. He noted several changes in b), the language was clarified on the residency requirements, so the candidate would not need to be a resident to qualify and run. Next, if the Council appoints someone as an interim, the qualifications in a) would need to be met:

- a) No person shall be eligible for the office of City Marshal who does not: (a) have at least five years of experience in law enforcement, or related fields; (b) meet the minimum qualifications for employment as a law enforcement officer “pursuant to Florida Law”. ~~pursuant to F.S. § 943.13~~, and; (c) meet all other requirements to hold office as defined by ordinance. In response to Chair R. McKnight, City Attorney Clay Adkinson said it should reference “pursuant to Florida Law”.

Councilmember T. Bierbaum stated the City Marshall should be excluded from the compensation section. The previous committee wanted to address the compensation being removed while the Marshal was in office. In response to Chair R. McKnight,

- b) It shall not be required for the City Marshal to be a resident of the City at the time of qualification; however, the City Marshal shall be required to establish residency in the City within six (6) months of election and must maintain residency in the City while in the position, except as provided in Subsection (b).

Discussion ensued on part c). In response to Chair R. McKnight, City Attorney Clay Adkinson said supermajority must be 4 out of 5, in absence of the fifth member, 3 out of 5. We should require the affirmative vote of at least four council members.

- c) If the City Marshal relocates out of the City but within Walton County due to a City-declared emergency and loss of residence due to emergency circumstances, the City Marshal will be given six (6) months to re-establish City residency. If the City Marshal is unable to re-establish City residency after the initial six (6) month period due to good cause, the City Marshal may be granted a one-time extension for an additional six (6) months by a ~~majority vote~~ affirmative vote of four of the five Council members of the City Council. If the City Marshal is unable or unwilling to re-establish City residency by the deadline, the office of City Marshal will be declared vacant. At no time may the City Marshal relocate outside of Walton County without the office being declared vacant.

Discussion ensued on Section 11.02 – Vacancy.

- a) A vacancy shall be created upon the effective date of resignation, when the City Marshal fails to meet the residency requirement, dies, or is removed from office in any manner authorized by law. Committee kept as written.
- b) In the event of a vacancy of the office of City Marshal for any reason whatsoever, the City Council shall, by affirmative vote of at least four Council members ~~super majority vote~~, designate and appoint a properly qualified person as Interim City Marshal to execute the functions of the office until such time as a new City Marshal is elected adding the qualifications in Section 11.01:
 - a. A properly qualified person as Interim City Marshal shall meet the same qualifications and residency requirements as defined in section 11.01.

The committee concurred with City Attorney Clay Adkinson in Section 11.03, Powers and Duties stating the term of Chief of Police causes confusion that there are two positions, so Chief Law Enforcement Officer of the city defines it better. City Marshal J. Hurley concurred that the term Chief of Police has created confusion in the past.

Language agreed upon: The City Marshal shall:

- a) The City Marshal shall serve as the Chief Law Enforcement Officer within the City of DeFuniak Springs and have control of the police force. It shall be the duty of the City marshal to perform such duties as may be proper to his office under the provisions of law or required by ordinance.
- b) It shall be the duty of the City Marshal to see that all the ordinances of the city are strictly complied with.
- c) Prepare and submit an annual budget to the council for the police department.
- d) Hire competent and qualified police officers as may be provided for in the city budget.
- e) Suspend or dismiss employees of the police department for insubordination, disobedience or misconduct or failure to carry out assigned duties.

Next, the committee went over Section 11.04 – Compensation.

Discussion ensued on the compensation being payable in line with the other employees' payroll timing. In response to Chair R. McKnight, City Attorney Clay Adkinson replied at least one municipality runs on the calendar year. However, because of trim packages and ad valorem time, it makes more sense for the fiscal year to start with October. He added most municipalities have used October 1st as their fiscal year.

Discussion ensued on compensation and budgeting. City Attorney Clay Adkinson said the City Marshal position is not guaranteed to provide any compensation, so if you could lock in compensation with budgetary restrictions. Another option, he mentioned is the Council by 4 out

of 5 votes, could determine annual compensation should not be less than the total compensation at the time of election or determine that a reduction of the city budget is necessary due to extreme financial circumstance of the city. City Marshal J. Hurley suggested coming up with better language for the next meeting.

The committee agreed on: The annual compensation of the Office of City Marshal shall be determined by the City Council during the budgetary process prior to October 1 of each year. The annual compensation so determined shall be “payable consistent with other fulltime employees” ~~payable no less than weekly and effective as of October 1 of each year.~~


Chair R. McKnight closed citizen comments after hearing none.

Chair R. McKnight conferred with the Committee and scheduled the next meeting for Thursday, May 21st from 10 a. - noon and will pick up on Section in 12.01, the City manager and possibly the section on the City Clerk.

Chair R. McKnight adjourned the meeting at 11:56 a.m.

Approved:


Robert McKnight, Chair


Minutes submitted by,
Maryanne Schrader, City Clerk

