

Charter Review Special Committee
Meeting Minutes
June 29, 2020
10:00 a.m.

City Clerk Maryanne Schrader called the roll. Members present: Councilmember R. McKnight, Councilmember T. Bierbaum, and Citizen Doyle Redwine. Also, in attendance: City Attorney Clay Adkinson, City Manager Mell Smigielski.

Mayor Bob Campbell, City Marshal James Hurley, and Deputy City Manager Carisse Lejeune was also in attendance.

Chair R. McKnight called the meeting to order at 10 a.m.

Chair R. McKnight asked for a motion to approve the minutes of May 29, 2020.

Motion by Citizen D. Redwine and seconded by Councilmember T. Bierbaum to approve the minutes of May 29, 2020.

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 one was present.

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

Councilmember T. Bierbaum said he compiled the draft ordinance from his notes and what the city clerk had distributed.

Councilmember T. Bierbaum explained he removed the strike out on the preamble, as it was written by the former Charter committee, and he felt it was important to retain. The committee agreed they liked the preamble and thought it was a good choice to keep.

“We the people of the City of DeFuniak Springs, Florida, under the constitution and laws of the United States of America and the State of Florida, in order to provide the benefits of local government responsive to the will and values of our citizens, do hereby adopt this Charter to define the powers and structure of our government. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation. We believe in an open, responsive government that abides by the highest ethical standards and operates as a careful steward of the human, fiscal, and natural resources of our city; that allows for fair and equitable participation of all persons in the affairs of the city; that provides for transparency, accountability, and ethics in governance; that fosters fiscal responsibility; and that meets the needs of a healthy, progressive city while preserving our cultural heritage and historical character. Furthermore, this Charter establishes a city government whose duty is to provide a level of services that exceed those provided in unincorporated regions of Walton County Florida. The overall goal of this Charter is to establish a mechanism that enables the city to achieve a high quality of life for the its residents during the twenty-first century.”

Councilmember T. Bierbaum went over Section 1.01, Creation and Powers – he highlighted Item C and explained he preferred to retain it:

“The City of DeFuniak Springs was incorporated on July 30, 1901 pursuant to general law. The municipal corporation now existing and known as the City of DeFuniak Springs located in Walton County, Florida, within the boundaries hereinafter described, shall continue to be a body politic and corporate, and shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except when expressly prohibited by law.

- a) The City of DeFuniak Springs shall have all the powers granted to municipal corporations and cities by the constitution and laws of the State of Florida, including the Municipal Home Rule Powers Act, and by this Charter, together with all implied powers necessary to execute the powers granted. Except as prohibited by the constitution or laws of the United States or the State of Florida, the Walton County Charter, or as restricted by this Charter, the City of DeFuniak Springs may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.
- b) The City of DeFuniak Springs may borrow money, contract loans and issue bonds (general obligation or revenue) from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property and taxing power of the municipality for the payment of such debts and bonds.
- c) The police powers of the City of DeFuniak Springs granted under this Charter shall extend to and be in full force and effect upon all property within the corporate limits as defined in this Charter.”

Under Article II, Boundaries, City Attorney Clay Adkinson explained there were two lines that read the same, so the two lines were condensed. On the last sentence, it was determined to state the City Clerk will keep the official records on an illustrated map.

“The corporate boundaries of the City of DeFuniak Springs shall remain fixed and established as they exist of the date this Charter takes effect, provided that the City shall have the power to change its boundaries in the manner prescribed by law. The boundaries of the City shall be defined by metes and bounds with official records being kept by the City Clerk on an illustrated map.”

Councilmember T. Bierbaum went over Article III, the form of government, stating he felt the first sentence should be removed or reworded, as it does not explain our form of government.

City Attorney Clay Adkinson explained the Florida League of Cities came up with the wording to help as guard rails but did not provide definition for our hybrid form of government. He recognizes that our form of government could be called Council-Manager, but this committee did

not quite agree with the title. Committee discussed our form of government as legislative and executive branch of government including the City Council.

Discussion ensued on removing the word “Mayor” and retaining the “Council-Manager” form of government or not stating the form of government at all.

However, City Attorney Clay Adkinson advised we have to declare the form of government and be specific. He also stated that the city marshal was added as of the legislative branch in the last sentence of Section 3.01.

Chair R. McKnight asked that Section 3.02 d) be moved to b) to keep consistency.

Councilmember T. Bierbaum said he will strike through “Mayor” and change it to Council-Manager form, keeping the explanation in the paragraph explaining the legislative and executive definitions. He will also move the City Manager d) to after b) in the section.

“The form of government shall be a Council-~~Mayor~~-Manager form. This form of government shall not be abolished or modified except by referendum. The Council shall hereinafter be called the “City Council” and shall constitute the legislative body. The Mayor and the City Manager shall constitute the executive body, with the elected City Marshal being a part thereof, who shall work in conjunction with the Mayor and City Manager.

- a) The City Council, with all legislative powers vested therein, shall consist of five (5) councilmembers elected by the voters of the City as provided herein and in accordance with election procedures established by ordinance.
- b) The Mayor shall be elected by the voters of the City as provided herein and in accordance with election procedures established by ordinance.
- c) The City Manager shall be appointed by City Council.
- d) The City Marshal shall be elected by the voters of the City as provided herein and in accordance with election procedures established by ordinance.
- e) The City Clerk shall be appointed by the City Manager.

Councilmember T. Bierbaum went over Section 3.04 – Elections - and explained the changes in the qualifications.

City Attorney Clay Adkinson went over Section 3.05 c) regarding the petition process and the qualifying fee to be set by city ordinance. The qualification section was added and said the biggest change is each signature should be by “ink”, as we need to leave it flexible in case the Florida legislature accepts digital ink signatures in the future. The signature date shall be accepted no earlier than January 1st of the date of the election to avoid people obtaining signatures on a petition two years in advance of the election.

Councilmember T. Bierbaum went over d), defining the qualifying process within a week. The definition now defines the qualifying window as the second Monday in January through the third Friday of the month.

City Attorney Clay Adkinson explained it will give them no less than a week but no more than two weeks. He clarified it would give them ten business days to qualify stating the requirement is twice as long as what the current reading would require, as it is better than counting backwards from the second Tuesday in April. He added, this gives candidates essentially three weeks to qualify.

In response to Chair R. McKnight, qualifying was moved to the third Tuesday instead of Monday because of the Martin Luther King holiday.

Councilmember T. Bierbaum went over City Marshal (f), as he removed “other related fields” because he thought it would create ambiguity.

Discussion ensued on the strengthening of the qualification, requirement of a sworn law enforcement officer, and placing the certification in the Charter.

Councilmember T. Bierbaum explained part g) and h) are the standard requirements and added “upon election”, residency has to be established within six months.

The committee agreed to change g) subsection should read (h) instead of (c).

c)“Every candidate for City Council, Mayor, and City Marshal shall be nominated for such office by satisfying all applicable requirements for qualifying and by either (1) paying a qualifying fee, as set forth by City ordinance, or (2) by filing a petition providing the following information:

- a. The nominee’s name, place of residence, and the position sought by the candidate, and for position the seat number sought by the candidate (1 through 5).
- b. The signatures of no fewer than three percent of qualified electors of the City. Each signature shall be made in a manner approved by the State of Florida and County Supervisor of Elections, and the residence address of each signatory shall be provided opposite the signature. Each signature shall be dated, with said date being no earlier than January 1st of the year of the scheduled election for which the candidate seeks to qualify. Signatures shall be verified by the Supervisor of Elections at the candidate’s expense.

d)Qualifying for City elected offices shall commence on the ~~second~~ Monday third Tuesday of January in the year of the scheduled election and shall last until the third Friday of that month. Candidates desiring to qualify by petition shall have all petitions submitted for verification no later than the third ~~Monday~~ Tuesday of that month.

- b) Candidates for City Council, and the Mayor, shall establish residency within the City of DeFuniak Springs at least one year prior to qualifying for the position. For the duration of their term of office, Councilmembers and the Mayor shall be citizens and registered voters of the United States, State of Florida, and City of DeFuniak Springs.

- c) No person shall be eligible for the office of City Marshal who does not: (a) hold a certification as law enforcement as provided by Florida law, (b) have at least five years of experience working as a certified law enforcement officer, and; (c) meet all other requirements to hold office as may be set by ordinance.
- d) It shall not be required for the City Marshal to be a resident of the City at the time of qualification; upon election, the City Marshal shall be required to establish residency in the City within six (6) months and must maintain residency in the City while in the position, except as provided in Subsection (h) (e).
- e) 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 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.”

Councilmember T. Bierbaum brought up Section 4.01 c) next.

After City Attorney Clay Adkinson explained part a, b, and c (Should have been labeled 1,2, and 3), the committee agreed to strike through those parts and retain the verbiage in Section 4.01 c.

The committee discussed vacancies on the Council and the appointment of a Council member to replace the vacancy.

City Attorney Clay Adkinson suggested stating a vacancy, “shall be filled by the next scheduled Council meeting”. He added the Mayor could bring a nomination forward, as well as the Council.

Mayor Campbell voiced concern there could be a long lapse in filling a vacancy. City Attorney Clay Adkinson said the vacancy nomination could be appointed at the next regularly scheduled meeting or state within so many days of receipt of the resignation letter, and a nomination can be placed on the next agenda.

The committee agreed to require a certain time frame of the resignation.

City Attorney Clay Adkinson said we are eliminating 1, 2, and 3 and keeping the wording in Section 4.01 c).

- c)“A vacancy shall be created by the submission of a letter of resignation, when an elected official fails to meet a residency requirement as set forth above or when an official position becomes vacant upon death, declaration of mental incompetency, or removal from office in any manner authorized by law and shall be filled as follows:

- ~~1. When a vacancy occurs with at least one half of the unexpired term of an elected official's position, the City Council shall convene within forty (45) days to call a special election to fill the vacancy for the unexpired term of the position in accordance with the City's election ordinance and this Charter. The special election shall be held on the first available date determined by the City Clerk. Regardless of the number of candidates, there will only be a single election. The candidate who receives the highest number of votes in the special election shall be declared elected to the vacant position. Elected officials will begin their term of office within five (5) business days following the certification of ballots by the City Clerk after the election. The City Council will convene at that time for the purpose of announcing the election results and the newly elected official shall subscribe to the oath of office.~~
- ~~2. When a physical vacancy occurs with less than one half of the unexpired term of an elected official's position, within two (2) business days of the creation of the vacancy, the City Clerk shall notify the City Council of the vacancy and shall announce at a public meeting that for a period of twenty one (21) calendar days, applications shall be submitted to the City Clerk from individuals meeting the qualifications for appointment to the elected official's position. In order to qualify, an applicant must meet all requirements set forth by law.~~
- ~~3. Within thirty (30) calendar days from the opening of applications, the City Clerk shall send the applications which meet the qualifications to the City Council, who shall select and appoint the person to fill the vacancy by majority vote. Within five (5) business days, the City Council shall convene for the purpose of announcing the appointment, and the appointee shall subscribe to the oath of office. The appointee shall fill the vacancy until the expiration of the original term of the applicable position."~~

After concerns brought up by City Marshal Hurley and Deputy City Manager C. Lejeune, regarding the nomination for a City Marshal replacement, the committee agreed that the City Manager would appoint a qualified Interim City Marshal with the Council making the permanent appointment by recommendation of the City Council by the first regularly scheduled meeting following 90 days of the date of vacancy.

Councilmember T. Bierbaum stated we have a lot of phenomenal sheriff deputies, so he thinks there are a good pool of potential candidates.

Regarding Section 4.02, City Attorney Clay Adkinson said the Governor will not be appointing someone to complete the term, so there will not be a Special Election. He will clean up the wording to help clarify the vacancy of an elected official.

"In the event three (3) or more vacancies on the City Council occur as defined in Section 4.01 of this Charter, the City Clerk shall immediately notify the Governor of the State who shall fill the

~~vacancies by appointment, and the appointees shall serve until the next general or special election.~~ At the time of the next general or special election, the City Clerk shall proceed with an election for the unexpired term of each vacant elected official in accordance with the City's election ordinance and this Charter."

Councilmember T. Bierbaum went over Article V, stating he took some of the verbiage from the preamble to write the first two paragraphs, as Ethics was deemed important.

Discussion ensued on the third paragraph and the use of issuing a "letter of censure" and whether it carried weight or followed the violator to the next position.

City Attorney Clay Adkinson said it could be published in a local newspaper, as outlined in the third paragraph stating the idea was to recognize that there may be circumstances that require the attention of the public body and was elevated to higher standards. It needed "censure" or "reprimand". He added four affirmative votes was needed in case it involved a member of the body.

Chair R. McKnight said a violation could be an issue of doing persistent or substantial violations, to address a problem.

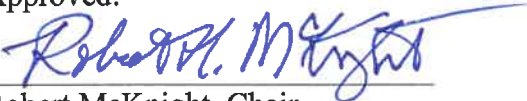
Since the committee did not offer clear enforcement, Committee member T. Bierbaum said the committee will get back to it after discussion on Article V.

Chair R. McKnight asked about scheduling a time for the next meeting, and the committee agreed to Monday, July 6th from 10:00 a.m. to noon.

Mayor Campbell said under the Ethics section to think about the awkward position that the city manager is in regarding an Ethics issue with the Mayor or City Council, so we need to clearly address the situation.

Chair R. McKnight adjourned the meeting at 11:30 a.m.

Approved:



Robert McKnight, Chair



Minutes taken by Maryanne Schrader, City Clerk
Proper notice having been duly given

