

**DeFuniak Springs City Council
Special Council Meeting Minutes
Council Chambers
August 17, 2020**

The following members were present: Mayor Pro-Tem Robert McKnight (Seat 2); Councilmember Todd Bierbaum (Seat 1); Councilmember Kevin Crystal (Seat 3); and Councilmember Henry D. Ennis (Seat 4). Mayor Bob Campbell and Councilmember Wayne Graham (Seat 5) were excused.

Also, present: Citizen Doyle Redwine (Charter Review Committee), Mell Smigielski, City Manager; Carisse LeJeune, Deputy City Manager; City Marshal James Hurley, Jr. and Maryanne Schrader, City Clerk.

Mayor Pro-Tem Robert McKnight called the meeting to order at 5:30 p.m. stating the purpose of tonight's meeting is to: Provide a brief description and overview of the draft of a new City Charter and listen to citizens' comments regarding the draft written by two different committees.

3. Mayor Pro-Tem R. McKnight provided an update on the earliest date for Charter Referendum.

City Manager M. Smigielski mentioned that the proposed December referendum vote was delayed because of the presidential election deadlines, adding we hope to get a date set as early as mid-January.

4. Mayor Pro-Tem R. McKnight mentioned it would not be necessary to set a 2nd Special meeting date. The option was open if we had an overflow crowd, which was not the case tonight. City Attorney Clay Adkinson added we can pass on Item 4.

5. Mayor Pro-Tem R. McKnight summarized that our City Attorney would review parts a and b, and Mr. Redwine would review part c. Mayor Pro-Tem asked the other councilmembers if they had any questions on the Draft Charter.

City Attorney Clay Adkinson stated the City Charter is basically a Constitution for the City and sets the foundational form of government. He added the Charter can only be changed by a referendum.

City Attorney Clay Adkinson explained the current City Charter is a lengthy set of documents consisting of over 109 pages. It is useful in order to research any of the separate documents within the whole, however, one would have to read them all to know what is contained in our current City Charter. The Grand Jury brought up comments on our form of government but because our Code book had an editorialized version of our Charter dated from 1903, the Grand Jury asked us to adopt some recommendations. The Council formed a committee to clean the document up. The Council asked the committee to do some editorials on the compilation of documents. In 2018, the Committee version was included in the Municode Codification and the combined list of documents distributed contained what the first committee created and the shortened summary of the new Charter.

Citizen Redwine went over the process the City undertook to write a new City Charter stating it was adopted in 1903 and was difficult to read. He explained much of it was never approved and some parts were voted down by Referendum. The Grand Jury report did not speak favorably of this. He added the Council wanted a modern document that the public could understand, so the new version is an extensive commitment of over eighteen months of work, by the Charter Review Committee and public input. It included over twenty meetings and countless hours outside of the meetings. As a citizen, he is impressed with the dedication of the Council and the countless hours put into revising the Charter. The presentation of the document is just a small portion of what was put into the revision. This is the first time in over 120 years, that the Charter has been reviewed and is the first time the public can vote on the document as a whole. Mr. Redwine expressed appreciation of the prior and current committee on the love for the city in producing the document.

Mayor Pro-Tem R. McKnight mentioned Jack Owen chaired the previous committee and signed the transmittal letter and thanked him for his input.

6. Mayor Pro-Tem R. McKnight stated voters will choose “Yes” or “No” to replace the existing Charter with the new Charter; and we will finalize the date for the Special Election which will likely be in January.

7. Public comments - Mayor Pro-Tem R. McKnight asked for comments from the audience.

City Marshal James Hurley came forward and stated he appreciated the work and thought that was put into the Charter. He said he has been approached about Section 3.05 d), pertaining to the residency of the City Marshal. He added when the committee discussed this, the committee talked about consistency. On page 3 b), the Council only requires one year of residency within the city before qualification, and the candidate must be a resident. Many people have told him he is the hardest working police chief they have met. He expressed this is his community. If we open it up to whoever wants to throw their hat into running for the office, someone may not have the heart of the community. A resident will know the streets, community and who they serve. He proposed to keep the requirement of being a resident of the city to run for the office of City Marshal.

Debate ensued on establishing residency. Councilmember K. Crystal agreed in part that they need to be a resident for a year, as he cannot remember anyone being elected that has not been a resident.

Councilmember H. Ennis stated that it bothers him regarding the residency in the draft document. In the past election, the citizens voted to retain the City Marshal as elected and also voiced concern that the entire Charter could be voted down on the residency issue.

Mayor Pro-Tem R. McKnight said the residency requirement for the City Marshal will be discussed at the next Charter committee meeting.

Citizen D. Redwine said the committee had discussed the issue on residency and different scenarios such as if someone lived just out of the city limits, it could be unfair to the person wanting to run.

Councilmember T. Bierbaum said it was discussed, and we changed the requirement to be a resident of Walton County. However, City Marshal J. Hurley said people said they want their chief to be a resident of the city.

Mayor Pro-Tem R. McKnight asked about the current law on residency, and City Attorney Clay Adkinson replied that the current Code does require residency of the city. Mayor Pro-Tem R. McKnight said it will be discussed carefully at the next meeting.

Dr. Melinda Henderson came forward and said as the devil's advocate, this committee has worked hard to hire or appoint the best qualified person. She added the city has gone through a long period of difficulty. In this day and age, we do not need to be so parochial. We would not have the fire chief we have, if we had a restriction on residency. She was concerned that we have a small pool of qualified candidates. An elected City Marshal does not fit the type of government we are trying to structure.

Councilmember K. Crystal voiced concern that we could risk having the Charter fail at referendum. He added that residency will fulfil what the Grand Jury requested.

However, City Attorney Clay Adkinson said the Grand Jury report did not make any reference to the City Marshal.

City Attorney Clay Adkinson said the County does not control the City Marshal. There are currently over sixty counties that have a City Marshal, and City Marshal J. Hurly added there are eleven elected.

Councilmember T. Bierbaum said the Council decided not to consider the option of election vs. appointed for the City Marshal.

Resident Dan Cosen stepped forward. He mentioned he read over the draft and said the document is very well written. However, he noted that there was no language on term limits and added it is the power of the voters to determine term limits. He mentioned the City Clerk is the only Charter level officer not required to live in the city, but he did not think that was a deterrent. Regarding, the drawing of straws to break a tie in an election, he did not find that an issue. He said the common man can read it, and added the committee did an outstanding job.

Citizen, Robert Raymond came forward, also stating the Charter was very well done. He said he would like to comment on the City Marshal position. He added he believed at first that the City Marshal should be appointed but changed his mind because the City Marshal is truly vested in the town. He asked about the Preamble, mentioning the part on the progressive city and wanted to know what the rules are going to be as an historical city.

Mayor Pro-tem R. McKnight said the Planning department is working on the issue of the historic district, as it has its own section of the Code. We are looking for greater clarification. Regarding the question from R. Raymond, on what percentage of the city is historic, Mayor Pro-tem R. McKnight replied the City-designated Historical District is 360 structures around the circle. The Federal District is 250 houses within the area. He added if the street signs are brown, you are in the historic parts of the city. Mayor Pro-tem R. McKnight added he expects the historic district would not expand very much from its current boundaries. Some property owners are asking that the Historic District get bigger to get tax incentives.

Mr. R. Raymond said if we are restoring the area, would the Chautauqua Hall of Brotherhood building be considered a resort setting. Mayor Pro-tem R. McKnight suggested he speak to Chris Mitchell, as he can explain the history.

City Attorney Clay Adkinson explained the committee spent time on determining what needs to be in a Charter. The preamble is meant to be a declaratory statement of intent to give guidance. He added the Historic District and plan will be excluded from the Charter, as the city will continually change.

8. Council Comments, Discussion, Actions - Mayor Pro-Tem R. McKnight asked for comments.

Hearing none, Mayor Pro-Tem R. McKnight went over the schedule for the editing changes and moving forward with first reading.

Mayor Pro-Tem R. McKnight announced the committee would meet on the 19th from 8:30 – 10:30, and the 20th at 8:00 a.m. for a final read.

City Attorney Clay Adkinson said there will be no action except for a scrivener's error at the August 20th meeting.

City Attorney Clay Adkinson announced the Council will meet on August 24th for 1st reading of the ordinance and to call for a referendum on the Charter. He added Council will take public comments at the August 24th meeting. The goal is an up or down vote. The election officials will determine the wording of the ballot. The referendum will state a yes or no question, and it will be worded, "As should the existing City Charter be replaced with a new Charter? - Yes or No. If the ordinance passes, it will go into effect fifteen days after approval. The new standards will be in effect at the time of qualifications.

In response to the question from Councilmember K. Crystal on why the prior committee chose to review the Charter every ten years when the Grand Jury report suggested five years, City Attorney Clay Adkinson said the prior committee debated the issue. They decided that any portion of the Charter can be reviewed, or the public can bring the review forward by petition of 10% of the registered voters. Based on the ability of that option, every ten years is reasonable, but the Council can change it, as they fit. He added the vast majority of the existing Charter was never adopted by the city. This one will be passed by a vote of the citizens. The comprehensive charter failed at referendum in 1921, so the city had been operating with the current combined Charter since 1903.

Councilmember K. Crystal asked why the City Clerk, as a member of the Executive Branch, is not required to be a resident. City Manager M. Smigielski replied the position is based on qualifications. He added we have worked on getting qualified people here.

Mayor Pro-Tem R. McKnight said it probably was a requirement when the City Clerk was an elected office. He added the previous clerk was not a resident of the city. To find a Certified Municipal Clerk, may be impossible, if the City Clerk must be a resident.

Councilmember H. Ennis added that when the City Clerk was elected, we had a problem getting someone to run for the office. It was hard to locate someone to run for the office. You may not find anyone within the city limits.

Councilmember T. Bierbaum said the City Clerk is a distinctly different position. The City Clerk is the glue that holds us together. He added the City Clerk is not necessary to be a resident with the functions of city government.

Councilmember K. Crystal states if we should have consistency with the City Marshal position. He added since the City Clerk was moved under the City Manager, the position should not be Charter level.

City Attorney Clay Adkinson said the Clerk is a Charter-level position because the City Clerk attests to the Mayor's signature and applies the seal to the official documents.

Regarding the question from Councilmember K. Crystal about the casting lots, City Attorney Clay Adkinson stated that for the breaking of a tie in an election, it must be a random chance event. Drawing lots is an equal random event of chance. This event has occurred twice in the city history. The concept is that it occurs so infrequently, the phrase drawing lot implies a random act. The random drawing of lots holds up to a legal challenge. City Attorney Clay Adkinson added drawing lots is defined as making a random selection by getting a chance decision.

9. Adjourn

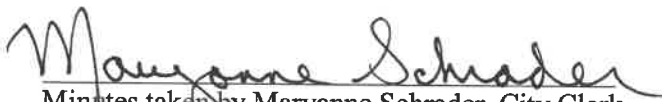
Mayor Pro-Tem Robert McKnight adjourned the meeting at 6:57 p.m.

Approved:



Mayor Pro-Tem Robert R. McKnight

Attest:



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

