



WILDWOOD
2017 Charter Review

Commission Draft

Recommendation Report v.2

To: Mayor Jim Bowlin and Wildwood City Council Members

From: Charter Review Commission

Date: August 17, 2017

Re: 2017 Review of City Charter – Proposed Amendments and Other Recommendations

On February 23, 2017, the Charter Review Commission commenced its review of the City Charter. Over the course of the past six months, it has held a total of nine (9) meetings to review the current City Charter in its entirety, including a consideration of public input provided during each of these meetings. At the conclusion of its review, the Commission identified four (4) proposed Charter Amendments, as well as a number of other recommendations for the City Council to consider.

Recommended Charter Amendments

The Charter Review Commission recommends consideration of the following Charter Amendments:

Proposed Amended Section 3.2(d). Limitation of Terms.

No person shall be elected to serve more than eight years total on the City Council. In applying this section, service on the City Council resulting from an election prior to April 3, 2018, or service of less than two years by a person elected or appointed after the effective date of this section to complete the term of another person, shall not be counted.

(commentary: current City Charter Section 3.2(d) prohibits any person from serving more than two consecutive terms of office at a time (exclusive of serving remainders of unexpired terms) as a Council Member, but permits serving an unlimited number of non-consecutive terms. The proposed language provides that, after its effective date, a person may serve no more than eight (8) years as a Council Member, exclusive of service for remainders of unexpired terms.)

Proposed Amended Section 4.2(d). Limitation of Terms.

No person shall be elected to serve more than eight years total as Mayor. In applying this section, service as Mayor resulting from an election prior to April 3, 2018, or service of less than four years by a person elected or appointed after the effective date of this section to complete the term of another person, shall not be counted.

(commentary: current City Charter Section 4.2(d) prohibits any person from serving more than two consecutive terms of office at a time (exclusive of serving remainders of unexpired terms) as Mayor, but permits serving an unlimited number of non-consecutive terms. The proposed language provides that,

after its effective date, a person may serve no more than eight (8) years as Mayor, exclusive of service for remainders of unexpired terms.)

Proposed New Section 4.7(k). Appointments.

Should the Mayor fail to make an appointment pursuant to the requirements of Sections 3.5(c), 4.7(a) or 7.2(b) of this Charter within forty-five (45) days from the occurrence of a vacancy or within forty-five (45) days from any failure of the City Council to consent to the Mayor's appointment to fill such vacancy, nominations of a successor may be made by any member of the City Council and selected with the consent of a two-thirds (2/3) majority of the remaining members of the City Council. The City Council may adopt procedures to fill vacancies consistent with this section.

(commentary: current City Charter Sections 3.5(c), 4.7(a) and 7.2(b) provide for a process for the Mayor to make appointments and for the City Council to consent to said appointments for vacant positions of the City Council or other board members, commission members, committee members and other officers of the City. However, in the event the Mayor fails to make a timely appointment to fill such vacancies, proposed new City Charter Section 4.7(k) would provide a means for any member of the City Council to nominate a successor with consent of a two-thirds (2/3) majority of the remaining members of the City Council.)

Proposed Amended Section 6.3(b). Certain Capital Expenditures—Voter Approval Required.

No expenditures funded by city revenues raised by city taxes and fees and exceeding a total project cost to the City of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) shall be made for the construction or reconstruction of a capital improvement (exclusive of streets and public transit) until such expenditures are approved by the voters of the City. If a majority of the voters are in favor of the question, the City Council may, subject to the provisions of the Charter and applicable ordinances, spend or authorize such expenditures. In response to an emergency or natural disaster, submittal to the voters shall not be required for expenditures to repair, replace or build capital improvements that the Council deems necessary for the immediate protection of the health, safety and welfare of the public. The limitation on expenditures provided for in this section shall be increased or decreased on an annual basis effective January first of each calendar year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce or such other nationally recognized and conveniently available commodity or consumer price index as may be approved by the City Council by ordinance.

(commentary: current City Charter Section 6.3(b) requires voter approval prior to spending or authorizing an expenditure of City funds for a municipal facility (including the building(s), land, site improvements, fixtures and furnishing), totaling more than \$3,000,000. The Commission believes this language is unclear in defining what a municipal facility was original intended to include. Furthermore, the Commission believes certain transportation improvements (i.e. streets, sidewalks, etc.) should be excluded, and that an inflationary factor should be incorporated into this Section. Finally, the Commission believes the expenditure amount subject to this Section should exclude any portion funded by other revenue sources, such as grants.)

Other Recommendations

Though the course of its review of the City Charter, the Charter Review Commission also identified a number of other items it recommends the City Council consider. These recommendations would not require amendments to the City Charter, but could instead be considered through legislation or the adoption of procedural policies.

Recommendation #1, Relevant Section: 3.2(b)

- Recommendation to require a background check be conducted as part of candidate filing for elected office

Recommendation #2, Relevant Sections: 3.5(c) and 3.8(e)

- Recommendation to consider participation and voting via teleconference and/or video conference

Recommendation #3, Relevant Section: 3.8(a)

- Recommendation to update communication and notification policies
- Recommendation to post meeting agendas on the exterior of City Hall building (Main Street side)

Recommendation #4, Relevant Sections: 3.5(b), 3.6, 3.7, 4.5(b), 11.3

- The Charter Review Commission recommends that the City Council formalize, by ordinance, detailed procedures by which complaints alleging a violation of the City Charter by any City official be reviewed and addressed. Specifically, it is recommended that such procedures include the following:

Section XXX.XXX

- A. Any City resident may file a complaint with the City Clerk alleging a violation of the City Charter. Such complaints shall be sworn and notarized and submitted on forms prepared by the Special Prosecutor, which shall require, at a minimum, the following information:
 1. Name, address and phone number of the Complainant;
 2. Name of the City official alleged to have violated the City Charter;
 3. The text and section number of the provision of the Charter alleged to have been violated;
 4. A statement of all facts supportive of the allegation of a violation of the City Charter;
 5. Copies of any exhibits supportive of the facts alleged.
- B. Upon submission of a complaint pursuant to this Section, the City Clerk shall immediately advise the Mayor and City Council of the Complaint, and refer the complaint to the Special Prosecutor.

- C. The Special Prosecutor shall review the complaint, and, within thirty (30) days of its filing either:
 - 1. Report to the City Council that, based upon the allegations made in the complaint, there is probable cause to believe that a violation of the City Charter occurred;
 - 2. Report to the City Council that, based upon the allegations made in the complaint, the complaint has been dismissed and the reasons therefor; or
 - 3. Request the City Council for additional time to review the complaint.

Any report or request submitted pursuant to this subsection C shall be placed on the agenda at a Regular Meeting of the City Council and entered into the minutes of that meeting.

- D. Upon receipt of a report to the City Council that there is probable cause to believe that a violation of the City Charter occurred, the City Council shall direct the Special Prosecutor to prepare a resolution setting forth the facts and law alleging a violation of the City Charter which shall include a copy of the filed complaint. Such resolution shall be presented to the City Council at its next Regular Meeting.
- In addition, in light of the ongoing uncertainty regarding interpretation of various provisions of the City Charter, it is recommended that the City Council, periodically and to the extent permitted by law, provide interpretive guidance of said provisions. Specifically, with respect to Section 11.3 of the City Charter, it is recommended that, in order to provide guidance to prospective candidates for City elected positions or other City officer, the City Council adopt the following interpretive language in the City Code:

Section XXX.XXX

- A. No City officer, board member, Council member, commission member or employee shall use official authority or official influence for the purpose of interfering with or affecting the result of an election to City office.
- B. Activities prohibited by paragraph A of this section and 11.3 of the City Charter are:
 - 1. Any City officers or employees:
 - a. Using his or her official title while participating in political activity;
 - b. Using his or her authority to coerce any person to participate in political activity; and

- c. Soliciting, accepting, or receiving uncompensated individual volunteer services from a subordinate for any political purpose; and
2. Any board member, Council member, commission member or the Mayor:
 - a. Using his or her authority to coerce any person to participate in political activity; and
 - b. Soliciting, accepting, or receiving uncompensated individual volunteer services from a subordinate for any political purpose.

Recommendation #5, Relevant Section: 3.8

- Recommendation to better define what constitutes a majority

Recommendation #6, Relevant Sections: 4.7(c-j) and 6.11

- Recommendation to solicit proposals for services more frequently

Recommendation #7, Relevant Section: 11.2

- Recommendation to strengthen the process for the filing of Personal Financial Disclosure forms, including the following:
 - Review what City positions should complete the form
 - Completion of both pages of the form
 - Providing the form during the application process for appointed positions

Also attached for your information are copies of all written public comments submitted during this process **(to be provided with final report)**. The Charter Review Commission is also available to answer any questions you may have regarding the recommendations provided herein.

Sincerely,

Edward L. Marshall, Chair
Charter Review Commission

Attachment A: written public comments