

CHARTER REVIEW BOARD RECOMMENDATIONS – 2015

GENERAL ELECTION ITEMS

(All references are to City Charter provision)

ELECTION OF MAYOR, VICE MAYOR

- **Proposed Change:** Elect Mayor to four (4) year term; candidates must file to run for that office
(**Currently:** Part II, “Legislative Branch and Legislation” Article 1, “City Commission” Sec. 5, (“election of mayor and vice-mayor”): highest vote-getter becomes Mayor for two (2) year term.)
- Keep residency requirements at one (1) year
- **Proposed Change:** Highest vote-getter for City Commission would become Vice-Mayor for a two (2) year term (this will occur with each biennial election).
(**Currently:** Part II, “Legislative Branch and Legislation” Article 1, “City Commission” Sec. 5, “Election of mayor and vice-mayor”: second highest vote-getter becomes Vice-Mayor for a one year term; for second year, Commission selects Vice-Mayor from sitting Commissioners.)

TERM LIMITS; VACANCIES

I. CITY COMMISSIONERS

- Term limits, essentially unchanged: Terms to be eight (8) consecutive years in office (two four year terms), regardless of which position to which elected, Mayor or Commissioner, with a two (2) year interval before running again (there is no actual change as currently applied to all elected officials).

VACANCIES

(**Currently:** Part VI, “Registrations and Elections”, Article 1, “Elections”, Sec. 7, “Filling vacancies in the office of City Commissioner”: if a vacancy arises in City Commission, City Commission must appoint a person who would otherwise be qualified as a candidate, within sixty (60) days of the vacancy. Such person shall serve for the unexpired portion of the term, until a biennial election occurs, then the vacancy must be filled by election.)

- **Proposed Change:** If there is a City Commissioner vacancy **within** one (1) year from the date of the last election, the vacant position will be offered to the next candidate who was not elected, who received the next highest number of votes at the last election. If that person declines or is unable to serve, the City Commission shall appoint a qualified resident (who would otherwise qualify as a candidate) to fill the remainder of the term, with the appointment to occur within thirty (30) days of the vacancy; if the Commission

does not appoint within thirty (30) days, a special election will be held, within sixty (60) days.

- If there is a City Commissioner vacancy **after** one (1) year from the date of the last election, the City Commission shall appoint a qualified resident to fill the remainder of the term within thirty (30) days; if the Commission does not appoint within thirty (30) days, a special election will be held thereafter within sixty (60) days.
- If there is a City Commissioner vacancy which occurs within six (6) months before the next election, the City Commission shall appoint a qualified resident to fill the remainder of the term within thirty (30) days; if the City Commission does not appoint within thirty (30) days, the Commission shall draw by lottery a name from a qualified “pool” of candidates (each Commissioner will select the name of one candidate, and a name will be drawn from that pool by the City Clerk).

II. MAYOR VACANCY

(Currently: Part II, “Legislative Branch and Legislation” Article 1, “City Commission” Sec. 5, “Election of mayor and vice-mayor”: a vacancy in the office of Mayor is filled by the Vice-Mayor; any vacancy of the Vice-Mayor office is filled by City Commission.)

- **Proposed Change:** If there is a Mayor vacancy within the first two (2) years, a special election will be called by the City Clerk within thirty (30) days; if the Mayor vacancy occurs with less than two (2) years until the next election, the position will be filled by appointment of a qualified resident by the Commission within thirty (30) days of the vacancy. If the City Commission does not appoint within thirty (30) days, the Commission shall draw by lottery a name from a qualified “pool” of candidates (each Commissioner will select the name of one candidate, and a name will be drawn from that pool by the City Clerk). If there is a tie, then the City Clerk shall draw by lottery from a pool of qualified residents, using same process as City Commission lottery process, above.

If the vacancy occurs with less than two (2) years before the next election, the Commission will appoint a seated member of the Commission to fill the vacancy. If there is no decision, the four elected officials’ names will be put into a lottery and the City Clerk shall draw from that [NOTE: in such a case, City Commission will need to fill the City Commissioner position vacancy, as above.]

CITY COMMISSION (INCLUDING MAYOR) ABSENCES AND REMOVAL FROM OFFICE

(Currently: Part II, “Legislative Branch and Legislation” Article 1, “City Commission” Sec. 8, “Forfeiture of office”: absences by any Commissioner from two (2) consecutive regular meetings, the City Commission shall operate to vacate the seat of such member, unless such absence is excused by the City Commission.

- **Proposed Change:** if there are two (2) consecutive unexcused absences from regular City Commission meetings (unless a written medical excuse or a physician’s note is provided), automatic removal; if official is hospitalized, it is an automatic excused

absence (without City Commission review) and does not count toward such excused absences.

- If any elected official is absent for a total of five (5) scheduled meetings within a calendar year, whether excused, unexcused or hospitalized, the official is automatically removed.

PROPOSED MISCELLANEOUS PROPOSALS

Proposed: Part II, “Legislative Branch and Legislation”, Article 1, “City Commission”, Section 7, “Limitations on powers”, the Board suggested adding penalty provisions for violation of the following provision. Neither the city commission nor any of its members nor anyone acting on behalf of any of them shall dictate the appointment of any person to office or employment by the city manager, or in any manner prevent the city manager from using his or her own judgment in selecting those officers or employees which he or she is entitled to appoint or select under the provisions of this charter. The commission and its members shall deal with the administrative service solely through the city manager, and neither the commission nor any of its members nor anyone acting on behalf of any of them shall give orders to the subordinates of the city manager, either publicly or privately.

- **Proposed:** adopt a new “Section 9”, “Conflict of Interest; Ethical Standards” of Part II, “Legislative Branch and Legislation”, Article 1, “City Commission”: All elected officials, (Mayor, City Commissioners), and all officials and employees of the City shall be subject to the standards of conduct for public officers and employees set by federal, state, County or other applicable law. The City Commission may adopt additional standards of conduct and code of ethics requirements that are not inconsistent with federal, state, County or other applicable law.
- The City Commission shall adopt, by ordinance, appropriate sanctions, penalties and enforcement procedures for each of the following:
 1. Violations of the City Ethics Ordinances;
 2. Violations of the City Charter;
 3. Violations of the public meeting decorum and civility policies which are applicable to City Commission Meetings.
- **Proposed Change:** Part X, “Miscellaneous Provisions”, Article 4, “Contracts”, Sec. 2, “Approval by City Commission of certain contracts”: “The City shall have the right to contract for the disposal of garbage, trash, waste and all types of debris by direct negotiation for such services without competitive bidding and without advertisement for bids for periods of time not to exceed ~~twenty (20)~~ five (5) years.
- **Proposed Change:** Part 1, “The Municipality of the City of Dania Beach”, Article 3 , “Powers of the City”, Sec. 2, “**Certain expenditures**”: any agreement, commitment or any other action of any kind, pursuant to which the city shall or may become obligated to expend more than one million dollars (\$1,000,000.00) in ~~city~~ **any** funds, either in connection with one transaction or cumulatively from a series of directly related transactions, or which has a direct net fiscal impact, as determined by the city finance

director, upon ~~city~~ any funds exceeding that amount, shall require a four-fifths (4/5) vote of the city commission, as authorized in advance by adoption of an ordinance. There shall be two (2) public hearings on the ordinance and notice of each such hearing shall be published in a newspaper of general circulation within the city, at least ten (10) days before each such hearing.

- **Proposed change:** Part 1, “The Municipality of the City 1, Article 3 – Powers of the City, Sec. 3, “**Airport Matters**”: “Any agreement of any kind to which the city may be a party, which affects any city residents and which involves any expansion, modification, addition to or change to or of any lands associated with the Fort Lauderdale-Hollywood International Airport, shall require a ~~unanimous~~ four-fifths vote of the city commission, as authorized in advance by adoption of an ordinance. There shall be two (2) public hearings on the ordinance and notice of each such hearing shall be published in a newspaper of general circulation within the city, at least ten (10) days before each such hearing.

- **Proposed change:** Part III, “Administrative Officers and Departments”, Article 3, “**City Manager**”, Sec. 1, “Appointment, qualifications, compensation; powers and duties; suspension and removal”: the city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission. Such appointment shall require ~~at least a four-fifths (4/5) a~~ majority vote of the entire Commission. He or she shall be chosen on the basis of his or her executive and administrative qualifications, and shall be over the age of twenty-one (21). The city commission may require the city manager to be a resident of the city during his or her term of employment.

The city commission shall establish additional minimum requirements which serve as basic qualifications for the selection and appointment of a city manager. One such minimum requirement and qualification shall be that the appointee shall possess a degree in public administration or an equivalent degree, issued by an institution which has a nationally recognized accreditation. An "equivalent degree" shall, for purposes of this section, include the type of degree possessed by any department head who reports to the city manager, such as a degree in engineering or public finance. Any person who does not meet the foregoing minimum requirements and qualifications may be appointed as city manager, but such appointment shall require a ~~unanimous~~ four-fifths vote of the city commission.

• • •

- Part X, “Miscellaneous Provisions”, Article 2, “Sale of Public Property”, Sec. 1, “Resolution declaring property not needed for public use”:

• • •

Part X, “Miscellaneous Provisions”, Article 2, “Sale of Public Property”, Sec. 5, Sale of surplus real property”:

(a) Notwithstanding the other provisions of this article, the City of Dania Beach shall have the right to exchange, sell or convey real property acquired by the City of Dania Beach through enforcement or foreclosure of City liens and transfer of Lands Available for Taxes from Broward County, in accordance with the procedures stated in part (b) below.

(b) (b) Procedures. The Commission must pass by resolution with a supermajority vote requiring four out of five Commissioners' assent, which resolution must include the following:

(1) A determination that the real property is surplus property and acquired by the City in a manner described in part (a) above;

(2) An authorization for the City Manager to enter into an exclusive listing agreement for a period of six months, with a registered real estate broker, who has obtained a business tax receipt to do business in the State of Florida. The real estate broker shall be selected by lottery from among the qualified brokers and shall be paid a reasonable and customary real estate commission by the seller;

(3) An appraisal of the real property by a state certified real estate appraiser ~~with MAI designation~~;

(4) An authorization for the City Manager to enter into a contract for sale of the real property and to close the contract for sale, so long as the purchase price is not less than ninety percent (90%) of the appraised value;

(5) The contract for sale of the real property executed by the City Manager shall be contingent upon approval by majority vote of the City Commission at an advertised public hearing held at a regularly scheduled commission meeting. If the fair market value of the surplus real property, as appraised by the state certified appraiser, is greater than \$100,000.00 then the contract for sale of the real property shall be contingent upon approval by a supermajority vote requiring four out of five commissioners' assent at an advertised public hearing held at a regularly scheduled commission meeting.

- **Proposed change:** Part X, “Miscellaneous Provision”, Article 3, “Leases”
Sec. 1, “Power”:

Sec 1: Leases for not more than one year.

(NOTE: The Charter Board proposes a nearly verbatim adoption of provisions in the Fort Lauderdale City Charter, dealing with leases of municipally owned land.)

The city is empowered to lease or grant concessions for a period not exceeding one (1) year in any public property, upon a majority vote of the city commission. Included in properties which may be leased are public recreational facilities, tennis courts, recreational halls, football fields, baseball fields, playgrounds, public beaches, swimming pools, fishing piers, docks and wharves; the list enumerated is not exclusive but merely indicative of the class of public property deemed to be operated by the city in a

proprietary capacity. The provisions of this section shall also be applicable to leases to civic or charitable organizations, public nonprofit corporations, and like organizations, for leases not exceeding one (1) year.

Sec. 2: Leases with governmental entities or agencies for governmental purposes.

The city is empowered to lease to other governmental entities or agencies for governmental purposes, for periods of up to and including twenty-five (25) years, any property of the city, without the necessity for submitting the same to competitive bidding, upon such terms and conditions as the city commission shall by resolution determine. Any and all such leases previously entered into by the city are ratified and confirmed.

Sec. 3: Leases of parking spaces in parking facilities owned or operated by the city. Notwithstanding anything to the contrary in these provisions, the city is empowered to lease or concession, by negotiation and without competitive bidding, to private persons, firms or corporations for nonpublic purposes, parking spaces in parking facilities owned or operated by the city, for a period of not more than fifty (50) years.

Sec. 4: Leases for more than one year and up to but not more than twenty-five (25) years.

The city is empowered to lease or concession to private persons, firms or corporations, for nonpublic purposes, any lands, improvements, public buildings, recreational parks or facilities, public beaches, public utility plants, or any public works or public property of any kind including air space over public property owned or operated by the city and not needed for governmental purposes, whether used in a governmental or in a proprietary capacity, for a period of up to but not exceeding twenty-five (25) years, plus such length of time, not to exceed five (5) years, if determined by the city commission to be reasonably necessary to complete construction of any improvements proposed for the premises to be leased by such persons, firms or corporations. Each lease shall be authorized only after a public hearing, under authority of a resolution duly adopted at a meeting duly held at a designated meeting, under the following conditions:

(a) One (1) of the conditions for leasing such public property may be obligations of the lessee to construct on the property buildings or improvements to be used in connection with an existing facility, or to construct improvements on the property, if same is vacant, and in a manner not detrimental or harmful to the operation of any existing facility. In no event shall the fee title of the city be subordinated except upon terms and conditions as approved by the city commission.

(b) The city commission shall adopt a resolution at a regular meeting of the city commission specifying the facility to be leased, described by a legal description and giving its location by street number, if any, and a description of all improvements, if any, located upon the land, and shall declare how the land and improvements have been used since they have belonged to the city and the reasons for offering such land and improvements for lease.

(c) At any time, not less than thirty (30) days nor more than sixty (60) days after the adoption of such resolution, the land and improvements shall be offered upon competitive conditions for lease as desired and a notice shall be published by the city in the official newspaper for two (2) issues prior to the date set for receiving such bids for lease, with the first publication not less than ten (10) days before the date of receiving bids and the

second publication one (1) week after the first, specifying the date when sealed bids shall be received by the city commission for the lease of the publicly owned lands and facilities. The sealed bids must be accompanied by a cashier's check or certified check payable to the city in an amount equal to at least ten (10) percent of the first year's proposed rental. The city commission, in offering such public property or public owned facility for lease, shall set out in the resolution and notice such terms and conditions as deemed pertinent under which the land, facility or both will be leased and the number of years for which the land, facility or both shall be leased. The city commission shall consider any and all proposals and accept the proposal which, in its judgment, shall be the most advantageous lease for the city, however, the city commission may reject any and all bids. Upon the city commission approving any proposal submitted as provided in these provisions, a proposal, if acceptable, shall be accepted by resolution, authorizing preparation of the lease, provided a valid referendum petition has not been filed. If before the day advertised for receiving bids for lease of such property, a referendum petition is filed with the city clerk signed by fifteen (15) percent of the city's registered voters, demanding a referendum election upon the question of leasing such land, facility or both, no lease shall be executed by city officials until after approval by a majority of the voters participating in such referendum election. Such referendum election shall be called and held as provided in this charter.

(d) The resolution accepting the bid shall require the preparation of a form of lease for execution, embodying the terms and conditions of the bid and other legal requirements, for submission to the city commission at its next regular meeting or at a designated meeting. At least three (3) days before the meeting date, the lease shall be posted on a public bulletin board by the city clerk and each city commissioner shall be given a copy of the lease with a covering summary letter, provided, however, that in case of emergency, such procedure may be waived by the affirmative vote of three (3) of the city commissioners. The city attorney or city manager shall be required to give a summary of the lease to the public at such meeting which meeting shall be open to the public. The public shall have an opportunity to speak or object to the terms and conditions of such lease. If the city commission is satisfied with the terms and conditions of such lease, it shall adopt a resolution authorizing execution of such lease by the proper city officials upon compliance upon the part of the lessee. Amendments to such lease may be made from time to time by mutual consent, observing the same formality as in the original lease.

(e) Leases for more than twenty-five (25) years (NOTE: The following provision is adapted from a charter provision used by the City of Weston)

Prior to the conveyance, assignment, lease or management agreement for a term of twenty-five (25) years or greater (including options), for any city land, facility or both, city commissioners shall hold a minimum of two public hearings, at least twenty (20) days apart, in order to obtain public input into the proposed conveyance, assignment, lease or management agreement. The first public hearing shall be held to determine whether to solicit offers or proposals for the subject land, facility or both. The second public hearing shall be held to rank the offers or proposals. The notice of a proposed conveyance, lease or management agreement for a term of more than twenty-five (25) years (including options), of any of the city's land, facilities or both shall be advertised on the city's website at least ten (10) days prior to each public hearing. The city shall also

post a sign on the real property, the facilities, or both that it or they are subject to the proposed conveyance, lease or management agreement, which includes the date, time and location of each public hearing and a telephone number to call for additional information. The sign shall remain on the subject site until after the final public hearing. The sign shall be posted in a location that is clearly visible from the adjacent rights-of-way.

NON-CHARTER ITEMS

The board discussed the following topics:

- Decorum
- City Commission lack of respect for each other and the citizens
- “Stick to business”, no personal comments
- Limit of three (3) minutes for commissioners to speak
- Police and Fire reports should not be listed as agenda items
- Lack of public participation and no discussion by public on issues
- No ordinance or requirement pertaining for background checks for candidates (e.g., to confirm whether or not their voting rights were ever removed or restored for any reason.