

VILLAGE OF PALMETTO BAY
CHARTER REVISION COMMISSION
LIST OF ITEMS TO RECEIVE PUBLIC INPUT WITH COMMENTS FROM
THE PUBLIC MEETING

Below are the items raised by the Charter Revision Commission for either community input, or proposed revisions to the charter.¹

1. Article X, Miscellaneous; relating to annexation.

The Charter Revision Commission was presented a request by a resident relating to requiring two different types of votes prior to moving forward with annexation and requiring a 4/5 vote of the Council. After discussion the Commission recommended, that should a revision of the charter be made, the revision should be inserted at Article X, "Miscellaneous" article. The concept would be to have a vote of the Village Council on the concept of annexation, with a 4/5 supermajority vote to proceed with the annexation process. Then, the Village would conduct a "vote" on the concept of annexing an area by the existing Village. If a plurality of the Village desires to proceed with annexation, the Village Council would then proceed with a resolution that would be sent to county to request initiation of the County's annexation. Thereafter, an election would be scheduled for a vote of the area to be annexed. Commission decided to bring to public workshop for community input.

Dr. Ed Feller, Mr. Henry Clifford, and Mr. Rick Cook expressed support

2. Section 2.3(D), Relating to Elections and Term of Office of Elected Officials.
Language proposed:

(D) Affiliations. Each person running for elected office shall run independently of any other Village candidate.

Discussion was had in relation to independence of candidates from each other - to not run as a "block." Commission decided to bring to public workshop for community input.

Mr. Clifford expressed interest in nonpartisan and was advised that the issue was addressed at number 5, below.

Mr. Gary Pastorella expressed concern as to running as a slate.

3. Section 2.3(E), Relating to Elections and Term of Office of Elected Officials.
No language proposed at this time.

¹ Italicized words are provision of charter. Underlined words reflect additions to the charter language; and strike-thrus reflect deletions.

(E) Limitations on Lengths of Service. No person shall serve as Mayor or Vice-Mayor, or Council person for more than two consecutive terms. No person may serve on the Council for more than two consecutive terms. No person may serve as a combination of Mayor, Vice-Mayor and Council member for more than eight consecutive years.

The Commission discussed whether to delete the provision, or to modify the provision to allow either 3 of 4 terms; or to provide for two terms, per seat occupied; or to remove all term limits. Commission decided to bring to public workshop for community input.

Mr. Pastorella proposed language to change last sentence from 8 years to 12 years.

Dr. Feller believes in term limits and language should remain the same.

Mr. Eugene Flinn expressed desire for provision to remain, and expressed concern that 12 years would not work for all council members, only Districts 1 and 3 would benefit.

Mr. Clifford liked Mr. Pastorella's recommendation.

Mr. Cook agreed with Dr. Feller - 8 years sufficient.

Mr. Jerry Templar - Agreed with Mr. Pastorella's proposal.

Mr. Peter England believes language should remain the same.

**4. Section 4.2(C) Relating to Council Meeting Procedures and Prohibitions.
Proposed revisions and discussion item:**

(C) Holding Other Office. No elected Village official shall hold any appointed Village office or Village employment while in office, or any other county, state or federal elected office. No former elected Village official shall hold any compensated appointive Village office or Village employment until ~~one year~~ two (2) years after the expiration of his/her term.

The Commission discussed whether to modify the above provision from one to two years in length. Direction was provided to staff to investigate other charters as to their provisions on this issue. Older Cities do not address this item. No city provides a two year prohibition in their charter. Majority of the Commission are looking to require a two year prohibition. Commission decided to bring to public workshop for community input.

Ms. Barbara Condon of Cutler Bay Charter Revision Committee advised that in 2008 Cutler Bay changed its charter provision to two years.

5. Section 5.1 Relating to elections, proposed language defining "nonpartisan office," consistent with state law proposed below:

(B) Nonpartisan Elections. All elections for the Council, Vice-Mayor and Mayor shall be conducted on a nonpartisan basis. Neither the ballot nor any campaign literature shall ~~not~~ show the party designation of any

candidate. Nonpartisan office means an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation.

The Commission recommended adding the state definition underlined above as to what a "nonpartisan office" means. The Commission also desired to include reference to campaign literature in the prohibition. The Commission is also seeking to put an enforcement mechanism in place as to all of Article 5. Possible proposed language to be inserted at the end of 5.1, creating a subsection (I):

(I) A violation of this Section shall be enforced by the State Attorney. A judicial determination of a violation shall be considered a misdemeanor violation and shall disqualify the candidate from being a candidate or holding office upon a judicial determination of a violation.

Commission decided to bring to public workshop for community input.

Mr. Pastorella agreed with the proposed edits.

Mr. England and Mr. Templar also agreed.

Mr. Flinn raised concerns over enforcement, costs, and concerns as to "otherwise superseded by state law."

6. Section 7.6 relating to Lobbyists, discussion had and decision made to bring to workshop:

Section 7.6 Lobbyists

(A) No person or firm who directly or through a member of the person's immediate family or through a political action committee or through any other person makes a contribution to a candidate who is elected Mayor, Vice-Mayor or Council member, shall be permitted to lobby on behalf of another, any elected official, employee or appointed board or committee member for a period of four (4) years following the swearing in of the subject elected official.

* * *

Any violation of this section ~~shall~~ may render the decision on issue being lobbied voidable.

Per the Village Manager's request clarification was allow a decision to be voidable (may) versus mandatory (shall), as there may be situations where the Village Council needs to proceed with a vendor.

The query for public discussion is whether the Charter should be amended to provide for a two year prohibition on lobbying versus a four year prohibition on lobbying. No other community provides a four year prohibition. In fact, the only other charter that provides a prohibition in their charter is the Town of Cutler Bay which has a two year lobbying prohibition.

Dr. Feller likes the concept but wanted definition of lobbying to be improved or included.

Other issues raised by public:

1. Peter England: Article X as it relates to Private School Expansion and referendum. He believes it singles out a type of use and believes it is unconstitutional on its face.
2. Leann Tellum: Proposed language change:

Under Article X, Miscellaneous provisions to include "Section 10.2 Neighborhood Protection and Compatibility"

Existing single-family residential properties and neighborhoods shall be protected from the negative impacts of adjacent and nearby non-single family-residential uses.

10.2.1 All non-single-family-residential development adjacent to and nearby single-family properties and neighborhoods shall not generate or cause to be generated excessive noise, dust, odor, vibration, traffic or runoff.

10.2.2 Any structure or use (that is a direct or indirect result of that structure) on any non-single -family-residential development adjacent to and nearby single-family properties and neighborhoods shall not disrupt or degrade the health, safety, tranquility, character and overall welfare of the adjacent and nearby single-family properties and neighborhood by creating such negative impacts as excessive density, intensity, noise, dust, odor, vibration, traffic or runoff.

"Excessive" shall mean more than the existing density; level of noise, dust, odor, vibration, traffic or runoff to the adjacent single-family properties; and an increase in the bulk and scale of the structures from that existing on the adjacent single-family properties.

"Structure" shall mean that which is built or constructed. This definition includes but is not limited to any permanent construction (for example: Buildings, walls, parking facilities, light poles, and fixtures and towers) and includes any construction that requires a building permit pursuant to

the Florida Building Code in existence on the date of adoption of this provision.

The Village shall enact an ordinance to implement this Charter Section.

3. Brenda Storch - Agrees with proposal 2, above and indicated it should include the "State's quiet enjoyment law."

4. Anthony Gorman handed out the following language to be added to charter at Article IV, Legislative, Section 4.1 Council Meeting Procedures, © Quorum and Voting.

C.1 Requirements for Adoption.

All resolutions or ordinances shall be adopted by no less than three affirmative votes of the Village Council. [not sure if all language of existing C is proposed to be removed, or this is added as a new subsection]

Except as otherwise provided in this charter, five affirmative votes of the Village Council shall be required to approve the actions indicated below:
To up-zone or change any single-family residential district to a district of higher density than present or existing use.

4. Chuck Latshaw proposed language to be added to Section 3.3(1), relating to the "Powers and Duties of the Village Manager":

However, the Village Manager may not appoint any department director without first obtaining the consent of a majority of the members of the Village Council at a duly noticed Village Council meeting. Procedures for presentation of the Manager's candidates to the Village Council may be specified by Ordinance.

Similar to Change implemented by the City of South Miami

5. Gary Pastorella proposed the following modification to Section 2.3(E), relating to Limitations on Lengths of Service:

No person shall serve as mayor or vice-mayor for more than eight (8) consecutive years. No Person may serve as a councilmember for more than eight (8) Consecutive years. NO person may serve as a combination of mayor, and vice-mayor, or mayor and council member for more than Twelve (12) consecutive years.

The language appears to replace all existing language under paragraph 2.3(E).

6. Mr. Pastorella also proposed the following revision to Section 2.1 as to the Powers of the "Mayor and Vice-Mayor;"

(A) Powers of the Mayor. The Mayor shall preside at meeting of the Council and be a voting member of the Council. In addition, the Mayor shall have the following specific responsibilities:

1. *Recommend the appointment of a City Manager to the Council in accordance with Section 3.2 of this Charter.*
2. *In the council-manager form, the council generally supervises the manager, attorney and*
3. *possibly the clerk (this position often reports to the manager). The council is prohibited*
4. *from supervising other staff, as this is the manager's responsibility. The council's*
5. *supervision, by policy, might include an annual review (written, oral or a combination of*
6. *both) of certain positions, salary and benefit reviews for those positions, contract*
7. *negotiations, discipline and termination.*

The formatting makes no sense, and not sure who is being reviewed or whose salaries, benefits, discipline or termination is being reviewed. In short, to review staff and involve itself in benefits of individuals, discipline, and terminations is a labor law concern. The Village Clerk, Attorney and Manager serve at the will of the Council (and under terms of their contracts). I assume all these are in addition to existing paragraph of the Section, and not to replace same. Not sure why all the comments as to the "council" are under the heading of Mayor and Vice Mayor.

7. Mr. Pastorella also proposed the following revision to 3.2 "Appointment; removal; compensation of the Manager:

The Manager shall be nominated by the Mayor subject to confirmation by a majority of the Council. The Manager may be removed at any time by a majority of the Council either upon the recommendation of the Mayor or upon the Council's own motion. The term, conditions of employment and compensation of the Manager shall be established by the Council.

Mr. Pastorella advised that this language is in the Pinecrest charter. This language would completely strike the exiting language of section 3.2. Discussion had by community. Dr. Feller opposing as the Village is not a Strong Mayor form of government and would give Mayor veto power. Mr. Flinn opposed to "Pinecrest" language. Mr. Templar supported language.

8. Mr. Clifford was concerned with paragraph 2.5(C)(3), as that paragraph only delineates vacancy of the Mayor and Vice Mayor, and wanted discussion of other positions. However, his concerns are addressed at subparagraphs (4) through (8).

9. Mr. Clifford discussed the Citizens' Bill of Rights and his interpretation of the Bill, and implementation by the Village Council. There was no substantive request to change the Bill of Rights. His comments appear to desire changes to the Village's Council meeting procedures. Mr. Cook agreed with Mr. Clifford on this item. Mr. Flinn commented.

10. Ms. Marsha Madsen requested a modification of section 4.2, entitled Prohibitions, at subsections (B)(1) and (2) to read as follows:

Except for the purpose of inquiries and investigations, the Village Council and its members shall deal with the Village employees who are subject to the direction and supervision of the Village Manager solely through the Village Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the Council from closely scrutinizing, by question and personal observation, all aspects of Village government operation so as to obtain independent information to assist the members in the formulation of sound policies to be considered by Council. It is the express intent of this provision, however, that such inquiry shall not interfere directly with the ordinary operations of the Village, and that recommendations for change or improvement in Village government operations be made through the Village Manager.

The revision would remove existing subsections (B)(1) and (2). Discussion had on this item.

11. Dr. Feller requested that section 4.7 entitled "Appropriation Amendments during the Fiscal Year" be modified to create a new subsection relating to require a supermajority vote of the council for the council to expend funds from the emergency fund balance.

Some discussion had.

12. Mr. Templar requested that Article VI, "Charter Amendments" at section 6.2(b) entitled "Charter Revision" be revised to require each "District" council person to nominate a member of the Charter Revision Commission to nominate someone from his or her district and for the Mayor and Vice Mayor to nominate - at large. This would ensure representation of each district. Discussion had. Proposed language:

(B) The Commission shall consist of five ~~persons~~ electors including one from each of the three Residential Areas. One appointment each shall be made by the Mayor, and Vice-Mayor at large from anywhere in the Village and each Council member shall make one appointment from each of their respective Residential Areas.