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## MEMORANDUM

TO: Mayor Feinsod and Members of the City Council

FROM: Kelly M. Fernandez, Esq., City Attorney

DATE: August 27, 2020

RE: Amendments to City Charter

During City Council's 2020 Strategic Planning Session, there was consensus to consider certain amendments to the City's Charter. In order for any amendments to the Charter to go into effect, the City Council will need to approve an ordinance with the final amendment language followed by a vote of the electors.

I. Based on Council direction, below are proposed amendments for Council consideration.

Amendment One: (signatory authority for City Manager for operational activities)

Sec. 3.02. - Mayor and vice-mayor.

(a) Duties of mayor. The mayor shall preside at meetings of the city council and shall have a vote on all matters. The mayor shall have no veto power. The mayor shall be recognized as head of city government for all ceremonial purposes; by the governor for purposes of military law; for service of process; for execution of contracts, deeds and other documents, except as otherwise delegated to the city manager or his designee; as signer of checks for payment of obligations, except as otherwise delegated to the city manager or his designee; and as the city official designated to represent the city in all agreements with other governmental entities. The mayor shall make all appointments of principal officers mentioned in this Charter and all operating and advisory boards, with the advice and consent of the city council, as provided in this Charter. The mayor shall have only those administrative duties required to carry out the above responsibilities.

Lakewood Ranch  
6853 Energy Court  
Lakewood Ranch, Florida 34240

Venice  
236 Pedro Street  
Venice, Florida 34285

Sec. 4.04. - Powers and duties of the city manager.

The city manager shall have the following powers and duties:

(a)-(h) No change.

(i) Miscellaneous duties. Perform such other duties as are prescribed by general law, specified in the Charter, by ordinance or resolution of the City, or by direction of ~~as may be required by the city council as a whole.~~

Amendment Two: (timing of selection of Vice-Mayor)

Sec. 3.02. - Mayor and vice-mayor.

3.02(b) *Vice-mayor.* A vice-mayor shall be elected by and from the members of the city council at the first regular council meeting following the certification of the results of the city election. The vice-mayor shall act as mayor during the absence or disability of the mayor.

Amendment Three: (term limits for Council service)

Sec. 3.04. - Elections, terms of office and term limits.

(a) The elected term of office for the mayor shall always be three years and no person shall serve as mayor for more than three consecutive elected terms.

(b) The elected term of office for city councilmembers shall be three years. The terms shall be staggered so that two city councilmembers shall be elected each year. Under certain circumstances as specified in Section 3.07, a city councilmember may be elected to serve the remaining portion of an unexpired term. No person shall serve as a city councilmember for more than three consecutive elected terms.

(c) No person shall serve as mayor and as a city councilmember in any combination for more than ~~three~~six consecutive elected terms.

(d) Appointed or elected partial terms of office to fill vacancies pursuant to section 3.07 shall not be counted for the purpose of computing term limits under section 3.04.

Amendment Four: (required vote for ordinances, resolutions and contracts)

Sec. 3.08. - Procedure

(c) Voting. Voting on ordinances and resolutions shall be recorded in the minutes of all meetings. A total of four persons, with or without the mayor, shall constitute a quorum. A smaller number may convene from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed in the rules of the city council. Four affirmative votes shall be required to approve a contract, to pass a resolution or for the final adoption of an ordinance. Should an ordinance, resolution or contract receive an affirmative vote of less than four, but the affirmative votes of enough when added to the absent members to make four, the ordinance, resolution or contract shall be automatically rescheduled/continued once to the next regular meeting.

Amendment Five: (Board appointment process)

Sec. 3.02. - Mayor and vice-mayor.

(a) Duties of mayor. The mayor shall preside at meetings of the city council and shall have a vote on

all matters. The mayor shall have no veto power. The mayor shall be recognized as head of city government for all ceremonial purposes; by the governor for purposes of military law; for service of process; for execution of contracts, deeds and other documents; as signer of checks for payment of obligations, and as the city official designated to represent the city in all agreements with other governmental entities. ~~The mayor shall make all appointments of principal officers mentioned in this Charter and all operating and advisory boards, with the advice and consent of the city council, as provided in this Charter.~~ The mayor shall have only those administrative duties required to carry out the above responsibilities.

II. Staff is also proposing the following amendments for Council consideration.

Amendment Six: (appointment of finance director, police chief and fire chief)

Section 4.04 - Powers and Duties of the city manager.

(a) *Appointment, suspension and removal.* Appoint and when deemed necessary for the good of the city, suspend or remove city employees and appointive administrative officers under the city manager's jurisdiction as provided for by City Charter, ordinance, resolution, personnel rules of the city, or by general law. The city manager may authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency. ~~Provided, however, the city manager shall, with advice and consent of the city council, appoint the finance director, police chief and fire chief or those officers whose duties generally embrace those of the office of finance director, police chief and fire chief in the event of consolidation of said offices. However, the city manager may suspend or remove the finance director, police chief and fire chief or those officers whose duties generally embrace those offices upon any staff reorganization.~~

Rationale: This provision seems inconsistent with the balance of authority and responsibility between the City Council (Policy Board) and City Manager (Chief Administrative Officer). The responsibility for all personnel decisions as well as all other operational responsibilities rests with the City Manager, as indicated in Section 4.04 (b) (Direction and supervision). The Manager is responsible to and reports to the City Council on all operational matters. It is inconsistent with the relationship that the Council would participate in the selection of specific personnel who report directly to the Manager. The City Council assumes no responsibility to oversee or assess the performance of any personnel except for the Charter Officers (City Manager, City Clerk, City Attorney).

Amendment Seven: (clean-up)

Sec. 5.06. - City council action.

The city council shall adopt a balanced budget. The city council shall publish notice ~~in one or more newspapers of general circulation in the city the places and times where~~ of public hearings on the budget pursuant to state law ~~and capital program will be held~~. After such public hearings the city council may adopt the budget with or without amendment, provided that the total authorized expenditures shall not be greater than the total anticipated funds for any fiscal year. If the budget is

not adopted by the city council before the first day of any fiscal year, the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis until such time as the city council adopts a budget for the ensuing fiscal year. The budget shall be adopted in the form of an ordinance and shall constitute appropriation of the amounts specified therein as expenditures of the funds indicated.

Rationale: The City has to follow state law on budget notices. The existing language is an additional requirement.

Amendment Eight: (clean-up)

Sec. 6.01. - Power to issue.

The city council shall have the power to authorize the issuance of bonds, certificates ~~or of~~ indebtedness or any form of tax anticipation certificates as provided by law. The city council shall provide for an independent financial advisor prior to any bond issuance. The independent financial advisor shall be prohibited from acting either directly or indirectly as a vendor or purchaser of the bonds.

Amendment Nine: (clean-up)

Sec. 7.04. - Form of ballots.

~~The city council by ordinance shall prescribe the form of the ballot including the method for listing candidates for mayor or city council elections and any other city election.~~ A Charter amendment, ordinance or resolution derived from initiative or referendum, as provided for in Articles VIII and IX, respectively, to be voted on by the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) (resolution) be adopted?" Immediately below such question shall appear, in the following order, the word "yes" and also the word "no" with a sufficient space provided to indicate the voter's choice.

Rationale: The form of the ballot for elections is determined by the Sarasota County Supervisor of Elections.

Amendment Ten: (update on retention of oaths)

Sec. 11.02. - Oath of office.

Every elected or appointed officer of the city shall, before entering upon the duties of office, take and subscribe an oath in the form required for state and county officers under the laws of the State of Florida. Such oath shall be kept on file in with ~~the office of the city clerk.~~