



AGENDA REQUEST

<u>AGENDA HEADING:</u> Board Actions	<u>COMMISSION MEETING DATE:</u> April 18, 2011	<u>AGENDA ITEM NO:</u> III.1.		
BY City Auditor and Clerk	Pamela M. Nadalini	Gretchen Serrie, Chair of the Charter Review Committee		
<u>Originating Department</u>	<u>Department Head</u>	<u>Presenter</u>		
<u>SUBJECT:</u> Report Re: Charter Review Committee Final Status Report for the period of December 1, 2010 through April 12, 2011				
<u>COMMISSION PRIORITIES:</u> Business Requirement				
<u>EXPLANATION:</u> Chair Serrie will provide a status report of the Charter Review Committee to the City Commission for the period of December 1, 2010 through April 12, 2011.				
<u>ADMINISTRATION'S RECOMMENDATION:</u> Recommend motion to accept the report for the period of December 1, 2010 through April 12, 2011.				
<u>APPROVAL SUMMARY:</u>				
Approval	Required	Date Completed	Completed By	Status
City Auditor and Clerk Approval	Y	03/29/2011	Pamela Nadalini	APPROVED



AGENDA REQUEST

ADDITIONAL EXPLANATION:

ADDITIONAL ADMIN RECOMMENDATION:

FUNDING SOURCE:

AMOUNT:

HOUSING IMPACT (Per House):

NEW CONSTRUCTION:

REHABILITATION:

\$ 0

\$ 0

SUPPORT DEPARTMENTS:

City Attorney - Robert Fournier

City Manager - Robert Bartolotta

AGENDA DISPOSITION

COMMISSION ACTION:

Final Action Motion: _____

Motion By: _____ Second By: _____

Vote: _____

Charter Review Committee 2010
Work Plan

	A	B	C	D	E	F	G	H
1	Tag	Article	Section	Pg	Sched	Recommendation	Date	Motion (Maker, Second, Vote)
2								
3		Article I						
4		Est of Municipality						
5			1) Purpose	4				
6			2) Body corp/politic	4				
7			3) Boundaries	4				
8	x		4) Form of Government	4		No Change	1/25	Consensus
9			5) Non discrimination	4				
10								
11		Article II						
12		Powers of Munic						
13			1) General	5				
14								
15		Article III						
16		City Commission						
17	x		1) Comp/district boundaries	5		No Change	1/25	Patterson, Snyder, 8-1 vote
18			Eligibility	5				
19			Election/term members	5				
20			2) Nonpartisan election	6				
21	x		3) Compensation	6		Commissioner Salary shall not exceed salary specified by F.S. 145.031 and shall not be increased beyond 66.7% except by super majority vote of the Commission	2/15	Patterson, Lampl, 8-0 vote
22			4) Judge own election	6				
23			Qualification members					
24			Forfeiture office					
25	x		5) Filling vacancies	6		Section 5(b) - Appointee to fill vacated term shall be otherwise qualified to run for that seat (i.e. resident of appropriate district), including those appointed by the Governor - <u>Accepted revised language as proposed by City Attorney on 1/11/11</u>	11/16 and 1/11	11/16/10 Patterson, Snyder, 9-0 vote ; 1/11/11 Snyder, Hoffman-Meketon, 9-0 vote to accept revised language
26			6) City employment prohib	7				
27	x		7) Mayor, Vice Mayor, Acting Mayor	7		No Change	2/1	Berkel, Hoffman-Meketon, 4-5 vote
28	x		8) Functions/powers mayor	8		2/1/11 - Remove line stating: "Incumbent Mayor shall present an annual state of the city message" and place it in Article V, Section 5, Powers and Duties of City Manager -- <u>3/1/11 Remove reference to State of the City Message completely from the Charter</u>	2/1 and 3/1	2/1/11 - No action taken; 3/1/11 Patterson, Berkel, 7-1 vote
29	x		9) Meetings	8		Section 9(a) - Individual meetings may be cancelled by a super majority vote of the Commission - <u>Accepted revised language as proposed by City Attorney on 1/11/11 with change that section read that four (4) City Commissioners may cancel a meeting, rather than super-majority</u>	11/16 and 1/11	11/16/10 Snyder, Hoffman-Meketon, 9-1 vote; 1/11/11 consensus to accept proposed revised language
30			10) All meetings public	9		No Change	4/12	Jaensch, Patterson, 8-2

Charter Review Committee 2010
Work Plan

	A	B	C	D	E	F	G	H
1	Tag	Article	Section	Pg	Sched	Recommendation	Date	Motion (Maker, Second, Vote)
31			Rules/order business					
32			Minutes proceedings					
33	x		11)Quorum & legis procedure	9		No Change	11/16	Consensus
34			Legislative procedure					
35			12)Emergency session	9				
36								
37		Article IV						
38		Powers/Duties CC						
39			1) Powers	9				
40	x		2) Enactment of ord/resol	9		No Change	11/16	No action taken
41			3) Emergency ordinances	12				
42			4) Record of ordinances	12				
43			5) Effective date ordinances	12				
44			6) Appointment charter offic	12				
45	x		7) Appoint acting charter offic	13		Remove line "hired as a permanent employee"	2/15	Levin, Patterson, 8-0 vote
46	x		8) Relationship comm/admin	13		Accepted revised language as proposed by City Attorney	1/11	Snyder, Hoffman-Meketon, 9-0 vote
47	x		9) Annual audit	15		Referred to staff to revise language - Accepted revised languag as proposed by City Attorney	11/30 and 1/11	11/30/10 No action taken 1/11/11 Consensus to accept proposed revised language
48	x		10)Budget/Table organization	15		No Change	11/30	Consensus
49	x		11)Surety bonds	15		Request City Attorney re-word to include bond OR insurance coverage - Accepted revised language as proposed by City Attorney with stipulation that City Commission shall authorize the purchase of insurance	11/16 and 1/11	11/16/10 Patterson, Snyder, 9-0 vote 1/11/11 Snyder, Hoffman-Meketon 9-0 vote
50			12)Duty levy ad valor/other tax	15				
51	x		13)Grant priv/comm/fran lease	16		Approval requires a super majority vote of the City Commission for contract period longer than 10 yrs; 3/29 combine with Section 19 Written Contracts; 4/12 Accepted revised language as proposed by Attorney Fournier in email dated April 7, 2011	3/1 and 3/29	3/1/11 Lampl, Levin 5-3 vote 3/29/11 Patterson, Lampl, 10-0 vote 4/12/11 Lampl, Patterson, 9-1 vote
52	x		14)Est of retirement systems	16		No Change	10/26	Patterson, Snyder, 4-5 vote
53	x		15)Establishment of boards	16		Require Ordinance defining how appointments are made - Accepted revised language as proposed by City Attorney	11/16 and 1/11	11/16/10 Patterson, Levin, 8-1 vote 1/11/11 Snyder, Hoffman-Meketon, 9-0 vote
54	x		16)Mun services outside city	16		Remove from the Charter	10/26	Snyder, Hoffman-Meketon, 8-1 vote
55			17)Investigations	16				
56			18)Penalties	17				

**Charter Review Committee 2010
Work Plan**

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1	Tag	Article	Section	Pg	Sched	Recommendation	Date	Motion (Maker, Second, Vote)
57	x		19)Written contracts	17		Approval requires a super majority vote of the City Commission for contract period longer than 10 yrs; 3/29 - Combine Section 13 Grant of privileges, commercial and franchise leases with Section 19 Written Contracts and require that employment contracts for a period longer than 10 years require approval by a super-majority vote of the City Commission	3/1 and 3/29	3/1/11 Lampl, Levin, 5-3 vote 3/29/11 Patterson, Lampl, 10-0 vote to combine sections 3/29/11 Patterson, Hoffman, 10-0 vote(employment contracts
58								
59		Article V						
60		City Manager						
61			1) Appointment/qualifications	17				
62			2) Removal	17				
63	x		3) Appointment deputies	17		No Change	2/15	Consensus
64	x		4) Appointment dept heads	18		No Change	2/15	Consensus
65			5) Powers and duties	18				
66								
67		Article VI						
68		City Auditor/Clerk						
69			1) Appointment/qualifications	19				
70			2) Removal	19				
71	x		3) Appointment deputies	19		No Change	2/15	Patterson, Levin, 8-0 vote
72	x		4) Appointment dept heads	20		No Change	2/15	Patterson, Levin, 8-0 vote
73	x		5) Powers and duties	20		Accepted revised language as proposed by City Auditor and Clerk with exception of deleting paragraph (r) and (s).	2/15	Patterson, Levin, 8-0 vote
74	x		6) Audit of accounts	21		Requested language be modified with consensus of Charter Officials and return at future meeting -- <u>Accepted revised language as proposed by Charter Officials</u>	2/15 and 3/1	2/15/11 Return to discuss at future meeting 3/1/11 Patterson, Battie, 7-1 vote
75								
76		Article VII						
77		City Attorney						
78								
79	x		1) Appointment/qualifications	21		No Change	2/15	Consensus
80			2) Removal	21				
81	x		3) Appointment asst/deputies	22		Accepted revised language as proposed by City Attorney	2/15	Consensus
82	x		4) Duties	22		Accepted revised language as proposed by City Attorney	2/15	Consensus
83								
84								
85								
86								
87								
88								

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	A	B	C	D	E	F	G	H
1	Tag	Article	Section	Pg	Sched	Recommendation	Date	Motion (Maker, Second, Vote)
89		Article VIII				Referred to staff to come back with a re-draft of the Article including: Section 1) should there be limitations on General Obligation Bonds and if so, what would be a prudent level; Section 5) Should some or all investment instruments be eliminated?; and take out anything redundant in State Law - <u>Accepted revised language as proposed by Bond Counsel Draper and Financial Administration Director Lyons on 1/11/11</u>	11/30 and 1/11	11/30/10 Patterson, Jaensch, 9-1 vote for Staff to return with a report 1/11/11 Patterson, Snyder, 9-0 vote to accept changes discussed
90		Bonding						
91	x		1) General obligation bonds	23				
92	x		2) Revenue bonds	23				
93	x		3) Pledge other rev sources	24				
94	x		4) Sale of bonds	24				
95	x		5) Further provisions bonds	25				
96	x		6) Auth bonds supplemental	26				
97								
98								
99		Article IX						
100		Nom/Election/Ref						
101			1) Eligibility/registration vote	27				
102			2) Qualifying for office	27				
103	x		3) Vacancy in candidacy	27		Errata change: Should reference Article III, Section 5 NOT 5(a)	11/16	Agreement with errata change proposed by Levin
104	x		4) Conduct of elections	27		Section 4(e) revise to require last period candidate treasurer's reports be hand delivered on the fourth day prior rather than the sixth day prior to the election	2/15	Patterson, Levin, 8-0 vote
105	x		5) Elections	28		Designate the two City Commission At Large Seats as Seat No. 4 and 5 and require candidates to declare which seat they are running for	2/1	Patterson, Snyder, 8-1 vote not to preclude the discussion regarding the designation of At-Large seats
106			6) Canvass returns/cert election	30				
107			7) Recall elections	30				
108	x		8) Referendum issuance bonds	30		All revenue bonds require referendum of voters with the exception of those used for utilities such as water, sewer and roads; 4/12 Request City Attorney re-draft section to break into Section (a) which states that Certificates of Participation require voter approval and (b) that Tourism facilities as defined require voter approval	3/29	3/29 Patterson, Snyder, 8-2 vote 4/12 Patterson, Hoffman, 10-0
109								
110		Article X						
111		Charter Amendmts						
112	x		1) Proposal of amendments	30		Revise Sec 1(a)(2) to require signatures for petitions be affixed 180 days prior to filing with the Clerk rather than 90 days	1/11	Hoffman-Meketon, Lampl, 9-0 vote
113	x		2) Referendum on amendments	31		No Change	1/11	Consensus
114			3) Adopting of amendment	32				
115								
116								
117								

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	A	B	C	D	E	F	G	H
1	Tag	Article	Section	Pg	Sched	Recommendation	Date	Motion (Maker, Second, Vote)
118								
119		Article XI						
120		Miscellaneous						
121			1) Indemnification	32				
122			2) Oath of office	32				
123			3) Separability clause	32				
124	x		4) Alternative min wage require	32		Remove from the Charter	10/26	Snyder, Hoffman-Meketon, 9-0 vote
125								
126		Article XII						
127		Transitional Prov						
128			1) Property title reserved to mun	39				
129			2) Obligation contracts preserved	39				
130			3) Transition	39				
131								
132								
133								
134		New Issues						
135	x		Employee residency requirements			No Change	11/30	Patterson, Berkel, 9-1 vote
136								
137			Municipal Election Canvassing Board			Include reference to Canvassing Board in Charter and specify that the Board will be composed of the City Auditor and Clerk, the City Attorney and one person selected by the City Commission	3/29	Patterson, Berkel, 9-1 vote
138								
139			Article IV - Changes in Employee Benefits and Compensation			Any change in employee benefits or compensation will require a super majority vote of the City Commission	3/29	Patterson, Snyder, 6-4 vote

Lori Rivers

From: Robert Fournier
Sent: Tuesday, April 12, 2011 10:26 PM
To: Pamela Nadalini
Cc: Lori Rivers; Gretchen Serrie; theserries@yahoo.com
Subject: Charter Review Committee
Attachments: Adopted_Charter_2007.doc

I have attached a final blackline version of the City Charter which illustrates the recommendations made by the Charter Review Committee. It is my understanding that this will be provided to the City Commission as back up material in the agenda package for April 18, 2011 under the "Board Report" of the Charter Review Committee.

Also, following is a brief list of the seven recommendations that I believe should be placed on the ballot as separate questions in the event that the City Commission decides to move forward with any of them. The remainder of the Charter Review Committee recommendations can likely be aggregated into a single ballot question if the City Commission votes to move forward with those recommendations.

1. Article III, Section 3 (page 6) - City Commissioner salaries: This amendment would allow Commissioner salaries to be increased up to a maximum of 100% of the amount authorized by the Florida Statutes for a similarly sized county. Currently, Commissioners' salary is fixed at 66.7% of this amount. Any increase above the minimum 66.7% would require an ordinance adopted by super majority vote of the City Commission.
2. Article IV, Section 13 (pages 16-17) - Super majority vote requirement for franchises, contracts with terms of more than 10 years: This amendment would require a super majority vote of the City Commission to: (1) adopt an ordinance granting a franchise for a term of longer than 10 years; (2) approve any contract (including leases) that has a term of longer than 10 years (including renewal periods); (3) approve a contract committing the city to pay salaries or benefits to employees if the duration of the commitment is greater than 10 years. Contracts that are terminable at will by the city would not require a super majority vote. Amendment would also limit all administratively approved contracts to 10 years or less.
3. Article VIII, Section 5 (page 28) - Prohibition against derivatives: Amendment would prohibit the city from entering into any derivatives in connection with a bond issuance. Provides a definition for "derivative."
4. Article IX, Section 5 (page 30-33) - Numbered City Commission seats: Amendment would restore the requirement that at large city commission candidates must designate or identify the particular at large seat for which they desire to run.
5. Article IX, Section 9 (page 33-34) - Referendum requirement: Amendment would require approval of the electorate at referendum prior to issuance of certificates of participation for any purpose and prior to issuance of revenue bonds issued to finance or refinance "tourism facilities." Provides a definition of "tourism facilities."
6. Article X, Section 1(a)(2) (page 34) - Citizen initiative petitions to amend City Charter: Amendment would lengthen the time frame within which citizens can gather voter signatures for petitions to amend the city charter from 90 days to 180 days. Amendment would further clarify that the 180 time frame runs backward from the date the petition is submitted to the Office of the City Auditor and Clerk for placement on a City Commission agenda.
7. Article XI, Section 4 (pages 36-42) - Deletion of Alternate Minimum Wage provisions: Amendment would remove the "alternate minimum wage" provisions in the charter which require employers receiving a subsidy from the city, as defined in this section, and having 50 or more employees to pay an alternate minimum wage above the federal minimum wage.

Robert M. Fournier

City Attorney
City of Sarasota
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CITY OF SARASOTA, FLORIDA

PART I

CHARTER AND RELATED LAWS

Subpart A. Charter

Article I. Establishment of Municipality

- Sec. 1. Purpose
- Sec. 2. Body corporate and politic.
- Sec. 3. Boundaries.
- Sec. 4. Form of government.
- Sec. 5. Nondiscrimination.

Article II. Powers of Municipality

- Sec. 1. General.

Article III. City Commission

- Sec. 1. Composition and district boundaries; eligibility, election and term of members.
- Sec. 2. Nonpartisan election.
- Sec. 3. Compensation
- Sec. 4. Judge of its own election; qualifications of members; forfeiture of office.
- Sec. 5. Filling of vacancies.
- Sec. 6. City employment prohibitions.
- Sec. 7. Mayor, vice-mayor and acting mayor.
- Sec. 8. Functions and powers of mayor.
- Sec. 9. Meetings.
- Sec. 10. All meetings public; rules and order of business; minutes of proceedings.
- Sec. 11. Quorum and legislative procedure.
- Sec. 12. Emergency succession.

Article IV. Powers and Duties of City Commission

- Sec. 1. Powers of city commission.
- Sec. 2. Enactment of ordinances and resolutions.
- Sec. 3. Emergency ordinances.
- Sec. 4. Record of ordinances.
- Sec. 5. Effective date of ordinances.
- Sec. 6. Appointment of city manager, city auditor and clerk, and city attorney.

Adopted Charter 2007

- Sec. 7. Appointment of acting city manager, acting city auditor and clerk, and acting city attorney.
- Sec. 8. Relationship of city commission with administration.
- Sec. 9. Annual audit.
- Sec. 10. Budget and table of organization.
- Sec. 11. Surety bonds or insurance.
- Sec. 12. Duty to levy ad valorem and other taxes.
- Sec. 13. Grant of ~~privileges, commercial, and franchises leases~~; approval of written contracts and changes to employee compensation and benefits.
- Sec. 14. Establishment of retirement systems.
- Sec. 15. Establishment of boards.
- Sec. 16. ~~Municipal services to consumers outside the city~~. Reserved.
- Sec. 17. Investigations.
- Sec. 18. Penalties.
- ~~Sec. 19. Written Contracts~~

Article V. City Manager

- Sec. 1. Appointment and qualifications.
- Sec. 2. Removal.
- Sec. 3. Appointment of deputies.
- Sec. 4. Appointment of department heads.
- Sec. 5. Powers and duties.

Article VI. City Auditor and Clerk

- Sec. 1. Appointment and qualifications.
- Sec. 2. Removal.
- Sec. 3. Appointment of deputies.
- Sec. 4. Appointment of department heads.
- Sec. 5. Powers and duties.
- Sec. 6. Audit Function of accounts.

Article VII. City Attorney

- Sec. 1. Appointment and qualifications.
- Sec. 2. Removal.
- Sec. 3. Appointment of ~~assistants or~~ deputies.
- Sec. 4. Duties.

Article VIII. Bonding

- Sec. 1. General obligation bonds.
- Sec. 2. Revenue bonds.
- Sec. 3. ~~Pledge of other revenue sources.~~ Reserved.
- Sec. 4. ~~Sale of bonds.~~ Reserved.
- Sec. 5. Further provisions applicable to bonds.
- Sec. 6. Authority as to bonds supplemental.

Article IX. Nominations, Elections and Referendums

- Sec. 1. Eligibility and registration to vote.
- Sec. 2. Qualifying for office.
- Sec. 3. Vacancy in candidacy.
- Sec. 4. Conduct of elections.
- Sec. 5. Elections.
- Sec. 6. Canvass of returns; certificates of elections.
- Sec. 7. Recall elections.
- Sec. 8. Referendum on issuance of certificates of participation and certain revenue bonds.

Article X. Charter Amendments

- Sec. 1. Proposal of amendments.
- Sec. 2. Referendum on Charter amendments.
- Sec. 3. Adopting of amendment.

Article XI. Miscellaneous Provisions

- Sec. 1. Indemnification.
- Sec. 2. Oath of office.
- Sec. 3. Separability clause.
- ~~Sec. 4. Alternative minimum wage requirements for certain employers.~~

Article XII. Transitional Provisions

- Sec. 1. Title to property reserved to municipality.
- Sec. 2. Obligation of contracts preserved.
- Sec. 3. Transition.

ARTICLE I. ESTABLISHMENT OF MUNICIPALITY

Sec. 1. Purpose.

We, the people of the City of Sarasota, desiring to avail ourselves of the right to establish a home-rule charter, in accordance with the constitution and the laws of the State of Florida, do ordain and establish this Charter and form of government for the City of Sarasota, Florida.

Sec. 2. Body corporate and politic.

The City of Sarasota, Florida, as its boundaries are established pursuant to Article I, Section 3, shall be and continue to be a body politic and corporate to be known and designated as the "City of Sarasota" and as such shall have perpetual succession.

Sec. 3. Boundaries.

The corporate boundaries of the city shall be established by ordinance and shall remain fixed as existing on the date this Charter takes effect. The city shall have the power to change its boundaries in the manner prescribed by law.

Sec. 4. Form of government.

The form of government established under this Charter shall be a "commission-manager" form as herein defined, with the city commission to consist of five (5) citizens who shall be elected in the manner hereinafter provided. The city commission shall constitute the governing body of the city, with the duties and responsibilities hereinafter provided. The city commission shall appoint a city manager to be chief administrator of the city and who shall serve at the pleasure of the city commission.

Sec. 5. Nondiscrimination.

Discrimination on the basis of age, disability, gender, marital status, national origin, race, religion, sexual orientation or veterans status in the areas of housing, employment and public accommodations shall be prohibited in the city.

ARTICLE II. POWERS OF MUNICIPALITY

Sec. 1. General.

In accordance with the Constitution of the State of Florida and the statutes of the State of Florida, the City of Sarasota shall have all governmental, corporation, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services; and it may exercise any of its powers for municipal purposes, except when expressly prohibited by law.

ARTICLE III. CITY COMMISSION

Sec. 1. Composition and district boundaries; eligibility, election and term of members.

(a) There shall be a city commission with all legislative powers of the city vested therein, consisting of five (5) persons who are electors of the city. City commissioners shall be elected to office for a four-year term. Two (2) commissioners shall be elected at-large. Three (3) commissioners shall be elected from single-member districts and shall reside in the district from which he/she is elected. All references to the city commission shall include the mayor unless specific reference is made to the mayor.

(1) Candidates qualifying for the at-large seats on the city commission shall have been residents and qualified electors of the city for a minimum of one (1) year immediately preceding the commencement of the term of office.

(2) Candidates qualifying for district seats on the city commission shall have resided in and shall have been a qualified elector of the respective district for which they are qualifying for a minimum of one (1) year immediately preceding the commencement of the term of office.

(b) The boundary of each of the three districts shall remain fixed and established as existing on the date this Charter takes effect. The city commission shall have the power to change the district boundaries in the manner prescribed by law.

(c) ~~Within one year~~ As soon as practical after publication of each decennial census, the city commission shall consider the number of residents in each of the three districts and, if necessary, cause the boundaries of the districts to be redrawn in order to conform to Constitutional standards and other applicable requirements of law. This provision shall not be deemed to prohibit the city commission from considering restructuring the boundaries of

the districts in the event of major changes in the population of any district brought about by annexation, contraction, or substantial population shifts.

Sec. 2. Nonpartisan election.

All elections to the office of city commissioner shall be conducted on a nonpartisan basis without designation of any political affiliation of any candidate on any ballot.

Sec. 3. Compensation.

All members of the city commission shall receive, for their services, ~~reasonable a minimum annual compensation. salary. Annual compensation~~ Such minimum annual salary shall be the salary authorized by Florida Statutes, Section 145.031, for the population group III multiplied by 66.7 percent. The minimum annual salary may be increased by ordinance of the city commission, up to, but not exceeding, the full salary authorized by Florida Statutes, Section 145.031 for the population group III (i.e. multiplied by 100 percent). The affirmative vote of four (4) city commissioners shall be required to adopt an ordinance increasing city commissioners' salaries in accordance with this section.

In addition to a salary, City commissioners may receive benefits to be set by ordinance or resolution and reflected in the city's annual budget. City commissioners shall be reimbursed for expenses incurred in connection with official duties, as approved by ordinance or resolution.

Sec. 4. Judge of its own election; qualifications of members; forfeiture of office.

The city commission shall be the judge of the election and qualification of its own members, subject to review by the courts. A city commissioner shall forfeit office if he/she (1) at any time during his/her term of office lacks any qualifications for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a felony or a crime involving moral turpitude, (4) fails to attend three (3) consecutive regular meetings of the city commission without being excused by the city commission or (5) ceases to fulfill the residency requirements of this Charter.

Sec. 5. Filling of vacancies.

A vacancy on the city commission caused by the death, resignation, disability, forfeiture, or recall of any city commissioner shall be confirmed in the city records by the remaining commissioners at the next regular or any

specially called meeting of the commission. The vacated office shall be filled as follows:

(a) If such vacancy occurs within the first three (3) years of a commissioner's four (4) year term, a special election shall be held within ~~seventy five (75)~~ one hundred twenty (120) days after such vacancy occurs. The person so elected shall serve the remainder of the unexpired term.

(b) If such vacancy occurs within one (1) year prior to the expiration of the commissioner's term, a majority of the remaining commissioners shall, within twenty-one days, appoint a qualified elector to the vacant seat to serve the remainder of the unexpired term. If the city commission fails to make the appointment within twenty-one (21) days, the governor is hereby authorized to appoint a qualified elector to serve the remainder of the unexpired term.

When a special election is called, the qualifying period for candidates shall begin as prescribed by ordinance. Special elections shall otherwise follow the election procedure for regular elections.

If no more than one (1) person qualifies for the special election, that person shall be proclaimed elected to the vacant seat upon the close of the qualifying period.

The qualified elector appointed, the candidate proclaimed elected, or the candidate elected at the special election shall be sworn into office at a special meeting called for that purpose or at the next regularly scheduled city commission meeting.

When three (3) or more vacancies occur so as to prevent the formation of a quorum required by Article III, Section 11, hereof, the governor of the State of Florida is authorized to fill such vacancies by temporary appointments. The city commission so formed shall call for a special election to be held within ~~seventy five (75)~~ one hundred twenty (120) days of such temporary appointments to fill the remainder of each unexpired term. Such temporary appointments shall expire at such time as the newly elected commissioners take the oath of office required under the provisions of Article XI, Section 2.

An individual elected, or appointed by the city commission or by the Governor to fill a vacancy in an at large city commission seat shall have been a resident and a qualified elector of the city for a minimum of one (1) year immediately preceding the date the vacancy was confirmed by the remaining commissioners in accordance with this section.

An individual elected, or appointed by the city commission or appointed by the Governor to fill a vacancy in a district city commission seat shall have been a resident and a qualified elector of the district represented by the commissioner in that seat for a minimum of one (1) year immediately preceding the date the vacancy was confirmed by the remaining commissioners in accordance with this section.

Sec. 6. City employment prohibitions.

A city commissioner shall not hold any other city position for which he/she receives compensation during his/her term as commissioner or for two (2) years after leaving office.

Sec. 7. Mayor, vice/mayor and acting mayor.

(a) On the Friday following the second Tuesday in April of each year, or thereafter when necessary to fill a vacancy, the city commission shall elect one (1) of its members as mayor and another of its members as vice-mayor of the city. In case the members of the city commission are unable to agree upon the selection of the mayor and/or the vice-mayor within five (5) days after the time fixed herein or within five (5) days after any vacancy occurs, such officers shall be chosen by lot, conducted by the city auditor and clerk, who shall certify the result of such lot in the minutes of the city commission.

(b) In the event of illness, disability, death or absence of the mayor, the vice-mayor shall act as mayor and have all the powers, duties and authority of the mayor; and in the event the vice-mayor signs any instrument in place of the mayor, then it shall be presumed without further proof that the mayor was either ill, disabled, deceased or absent from the city.

(c) In the event of illness, disability or absence from the city of both the mayor and vice-mayor, a quorum of the city commission may appoint an acting mayor for such length of time or for such particular purpose as may be necessary.

Sec. 8. Functions and powers of mayor.

The mayor shall preside at all meetings of the city commission and perform such other duties consistent with the office as may be imposed by the city commission. The mayor shall have a voice and a vote in the proceedings of the city commission, but no veto power. He/she may use the title of mayor in any case in which the execution of written legal instruments or other necessity arising from the general laws of the state as may be required. This shall not be considered as conferring upon him/her the administrative or judicial functions of a mayor under the general laws of the state. The mayor shall be recognized

as the official head of the city by the courts for the purpose of serving civil processes, by the government in the exercise of military law, and for all ceremonial purposes. ~~The incumbent mayor shall present an annual state of the city message.~~ The powers and duties of the mayor shall be such as are conferred upon him/her by the city commission in pursuance of the provisions of this Charter, and no others.

Sec. 9. Meetings.

(a) The city commission shall meet regularly not less than twice each calendar month at such times as it may prescribe by resolution, ~~provided it shall meet regularly not less than twice a month.~~ The City Commission may waive the requirement to hold two regular meetings each month by the affirmative vote of four (4) city commissioners. In the event of such waiver, the commission may decide to hold one regular meeting during that particular month or not to hold a regular meeting during that month.

(b) The mayor, or any two (2) members of the city commission, may call special meetings of the commission. Written notice shall be posted and delivered to each commissioner at least twenty-four (24) hours prior to the meeting.

(c) The mayor, or any two (2) members of the city commission, may call emergency meetings of the commission. The most appropriate and effective notice under the circumstances shall be provided for emergency meetings. The method of providing notice shall be recorded in the minutes of the meeting.

Sec. 10. All meetings public; rules and order of business; minutes of proceedings.

All meetings of the city commission shall be public, as provided by state statute, and any person shall have access to the minutes and records thereof at all reasonable times. The city commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

Sec. 11. Quorum and legislative procedures.

(a) Three (3) members of the city commission shall constitute a quorum.

(b) Unless otherwise stipulated in this Charter, ~~the~~ affirmative vote of three (3) members shall be necessary to adopt any ordinance or resolution, and the passage of all ordinances and resolutions shall be taken by "yes" and "no" votes entered in the minutes.

Sec. 12. Emergency succession.

Any vacancy or vacancies on the city commission created by death, resignation, disability or absence during grave public emergencies affecting the operation of the city government shall be temporarily filled immediately in the following order: first, city manager; second, city auditor and clerk; third, deputy city manager; fourth, chief of police; and fifth, director of public works.

**ARTICLE IV. POWERS AND DUTIES
OF CITY COMMISSION**

Sec. 1. Powers of city commission.

(a) The city commission shall be elected to establish policy for the City of Sarasota and shall appoint a city manager, a city auditor and clerk, and a city attorney as provided in Article IV, Section 6, to exclusively administer such policy.

(b) All powers of the city are hereby vested in the city commission except as otherwise provided in this Charter. The city commission may prescribe by ordinance or resolution the manner in which such powers shall be exercised.

Sec. 2. Enactment of ordinances and resolutions.

(a) "Ordinance" is an official legislative action of the city commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

(b) "Resolution" is an expression of the city commission concerning matters of administration, an expression of a temporary character or a provision for the disposition of a particular item of the administrative business of the city commission.

(c) Each ordinance or resolution shall be introduced in writing and shall embrace but one (1) subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

(d) A proposed general ordinance shall be read by title or in full on at least two (2) separate days. It shall be noticed once in a newspaper of general circulation in the city at least ten (10) days prior to first reading. The notice of

proposed enactment shall state the date, time and place of the public hearing, the title or titles of the proposed ordinance(s), and the place or places within the municipality where such proposed ordinance(s) may be inspected by the public. Said notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed ordinance(s).

(e) Ordinances which rezone private real property or deal with land use pursuant to the provisions of the Local Government Comprehensive Planning [and land development] Act [F.S. §163.3161 et seq.] shall comply with such additional requirements as may be imposed by law from time to time.

(f) Ordinances and resolutions shall be submitted to a vote of the city commission and shall not be deemed to be enacted until passed by the affirmative vote of three (3) members on any required reading. Additionally, ordinances adopting certain types of Comprehensive Plan amendments and resolutions authorizing the transmittal of such Comprehensive Plan amendments to the Department of Community Affairs, as specified in paragraphs (i) and (j) below, shall not be deemed to be enacted until passed by the affirmative vote of four (4) members on any required reading.

(g) Ordinances may be read by title only on first reading, if posted on the bulletin board at City Hall for at least three (3) workdays prior to such first reading, and may be read by title only on second reading, whether posted or not.

(h) Resolutions may be read by title only, if posted on the bulletin board at City Hall for at least (3) workdays prior to such reading.

(i) The affirmative vote of four (4) City Commissioners shall be required to adopt the following:

(1) A resolution authorizing the transmittal of a Comprehensive Plan amendment described in paragraph (j) below to the Department of Community Affairs and to other governmental agencies in accordance with Section 163.3184(3), Florida Statutes (2006), or successor statute requiring or allowing such transmittal.

(2) An ordinance adopting a Comprehensive Plan amendment described in paragraph (j) below in accordance with Section 163.3184(7), Florida Statutes, or a successor statute providing for the adoption of amendments to a local comprehensive plan.

(j) The “super majority” vote requirement of paragraph (i) above shall be required to adopt transmittal Resolutions for the following types of

Comprehensive Plan amendments and to adopt Ordinances enacting the following types of Comprehensive Plan amendments:

(1) An amendment to the adopted Future Land Use Plan Map (Illustration LU-6 of the Future Land Use Map Series) that changes the future land use classification of any parcel of real property depicted on the map whether the change is characterized as a “small scale” or a “large scale” plan amendment. Amendments to assign a future land use classification to a parcel of real property newly annexed into the City which has not previously been classified on the Future Land Use Map shall be exempted from the super majority vote requirement for transmittal and adoption and may be transmitted or adopted by simple majority vote of the City Commission.

(2) An amendment to increase the maximum allowable dwelling unit density, height or floor area ratio within any future land use classification listed in the Future Land Use Plan.

(3) An amendment to add any new future land use classification to the Future Land Use Plan.

(k) The super majority vote requirement of paragraph (i) above shall not apply to any votes taken by the City Sarasota Planning Board/Local Planning Agency when making recommendations to the City Commission regarding the transmittal or adoption of any amendment to the Comprehensive Plan.

Sec. 3. Emergency ordinances.

The city commission may, by the affirmative vote of at least four (4) of its members, enact an emergency ordinance without complying with the requirements of Article IV, Section 2(d) as provided herein. No emergency ordinance shall enact or amend a land use plan or rezone private real property. No emergency ordinance shall be valid for more than sixty (60) days.

Sec. 4. Record of ordinances.

Every ordinance shall upon its final passage be signed by the mayor or the member of the city commission presiding at the meeting when it was passed and by the city auditor and clerk or his/her deputy. It shall be recorded in a book kept for that purpose as a permanent record of the City of Sarasota.

Sec. 5. Effective date of ordinances.

All ordinances passed by the city commission shall become effective immediately when passed on second reading, except that the city commission may provide a later effective date by inserting a provision in such ordinance to that effect.

Sec. 6. Appointment of city manager, city auditor and clerk, and city attorney.

(a) The city commission shall appoint a city manager, a city auditor and clerk, and a city attorney to exercise the powers, perform the duties and assume the responsibilities hereinafter provided. The city attorney may be retained as outside legal counsel, or the city commission, at its option, may hire the city attorney as a permanent employee of the city.

(b) The city commission shall evaluate not less than annually the performances of the city manager, the city auditor and clerk, and the city attorney. The evaluation shall be presented and discussed at a meeting held in accordance with rules and procedures as set forth by resolution.

(c) The city commission shall approve compensation for the city manager, the city auditor and clerk, and the city attorney if he/she becomes a permanent employee of the city.

(d) Individual city commissioners shall be prohibited from giving direct orders to the city manager, city auditor and clerk, and city attorney. The city manager, city auditor and clerk, and city attorney shall be prohibited from carrying out any order directed by one commissioner, unless such order is supported by a majority vote or by consensus of the commission at a public meeting.

Sec. 7. Appointment of acting city manager, acting city auditor and clerk, and acting city attorney.

The city commission may appoint an acting city manager, an acting city auditor and clerk, and an acting city attorney to exercise temporarily the powers and perform the duties of the city manager, the city auditor and clerk, and a the city attorney ~~hired as a permanent employee~~ in the event of death, incapacity, suspension, resignation, termination, or any other long-term absence.

Sec. 8. Relationship of city commission with administration.

(a) *City manager.*

To the extent possible, it is the intent of this Charter to clearly indicate lines of demarcation between the duties of the city commissioners to legislate and set policy and the duties of the city manager to administer the day-to-day operation of the affairs of the city as follows:

(1) Appointment and removal of city officers and employees. The city manager shall have the sole authority for the appointment and the removal of administrative officers and employees of the city other than employees who report to the city auditor and clerk ~~and or to the city attorney, who shall be appointed and removed by the city commission.~~ Neither the city commission nor any of its members shall in any manner attempt to control or direct the appointment or removal of any such officer or employee. However, this constraint shall not prohibit the city commission or any of its members from fully and freely expressing their views with the city manager.

(2) Interference with administration. Except for the purpose of formal inquiries and investigations conducted pursuant to the provisions of Article IV, Section 17, of this Charter, the city commission and its members shall deal with city employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city commission nor its members shall give orders to any such officer or employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in city government operations by individual commissioners be made to and through the city manager, so that the city manager may coordinate the activities of city departments in order to achieve the greatest efficiency in the management and operation of the affairs of the city.

(b) City auditor and clerk.

(1) Appointment and removal of employees of the city auditor and clerk. The city auditor and clerk shall have the sole authority for the appointment and the removal of employees of the office of the city auditor and clerk. Neither the city commission nor any of its members shall in any manner attempt to control or direct the appointment or removal of any such employee. However, this constraint shall not prohibit the city commission or any of its members from fully and freely expressing their views with the city auditor and clerk.

(2) Interference with administration. Except for the purpose of formal inquiries and investigations conducted pursuant to the provisions of Article IV, Section 17, of this Charter, the city commission and its members shall deal with city employees who are subject to the direction and supervision of the city auditor and clerk solely through the city auditor and clerk, and neither the city commission nor its members shall give orders to any such employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in the operation of the office of the city auditor and clerk by individual commissioners be made to and through the city auditor and clerk, so that the city auditor and clerk may coordinate the activities of this department in order to achieve the greatest efficiency in the management and operation of the affairs of the city.

(c) *City attorney.*

(1) Appointment and removal of employees of the city attorney. The city attorney shall have the sole authority for the appointment and the removal of employees of the office of the city attorney. Neither the city commission nor any of its members shall in any manner attempt to control or direct the appointment or removal of any such employee. However, this constraint shall not prohibit the city commission or any of its members from fully and freely expressing their views with the city attorney.

(2) Interference with administration. Except for the purpose of formal inquiries and investigations conducted pursuant to the provisions of Article IV, Section 17, of this Charter, the city commission and its members shall deal with city employees who are subject to the direction and supervision of the city attorney solely through the city attorney, and neither the city commission nor its members shall give orders to any such employee, either publicly or privately. It is the express intent of this Charter, that recommendations for improvement in the operation of the office of the city attorney by individual commissioners be made to and through the city attorney, so that the city attorney may coordinate the activities of this department in order to achieve the greatest efficiency in the management and operation of the affairs of the city.

Sec. 9. Annual audit.

The city commission, at the end of each fiscal year of the city, shall cause the financial statements of the city to be audited by an independent certified public accountant selected by the city commission. Upon completion of the audit, the certified public accountants shall deliver a copy of the comprehensive annual financial report and a copy of their management letter to each member of the city commission, the city manager, and the city auditor and clerk. A copy of said ~~audit documents~~ shall remain on file in the office of the city auditor and clerk and shall be posted on the city's website when available. ~~A notice that the audited Comprehensive Annual Financial Report is available for public inspection shall be published at least once in a newspaper of general circulation in the city within a period of not more than thirty (30) days after the completion of such audit.~~

Sec. 10. Budget and table of organization.

The city commission shall approve annually a balanced budget and a table of organization identifying all functions of the city government.

Sec. 11. Surety bonds or insurance.

Annually, the city commission shall either: (1) require ~~The city manager, the city auditor and clerk, a city attorney hired as a permanent employee, and the finance director of financial services shall to each give bond with authorized corporate sureties, conditioned upon their the faithful performance of duty their duties; or (2) purchase insurance that would provide equivalent coverage to the city.~~ The amount of each bond, or alternatively, the amount of insurance coverage, shall be set by the city commission annually by resolution, and the bond or insurance premiums shall be paid by the city.

Sec. 12. Duty to levy ad valorem and other taxes.

The city commission shall levy such ad valorem and other taxes authorized by law as necessary and desirable to provide sufficient revenues to carry on the government of the city and to retire any bonded indebtedness.

Sec. 13. Grant of privileges, commercial, and franchises leases. ; approval of written contracts and changes to employee compensation and benefits.

(a) All privileges, commercial or conferred under any franchise leases for electric, gas, water, telephone, transportation, cable television, or for any other service, from the city shall be granted by the city commission by ordinance. approved by ordinance of the city commission. The affirmative vote of four (4)

city commissioners shall be required to adopt an ordinance granting a franchise for a term of greater than ten (10) years.

(b) The city commission shall approve all contracts of the city (including leases) except for specific contracts declared by ordinance of the city commission to be exempt from this requirement. Contracts so exempted may be administratively approved as provided by ordinance; except that any such administratively approved contract shall not exceed a term of ten (10) years. The affirmative vote of four (4) city commissioners shall be required to approve any contract to which the city is a party (including leases) in the event the term of the contract (inclusive of all renewal periods) is greater than ten (10) years. Likewise, the affirmative vote of four (4) city commissioners shall be required to approve any contract which commits the city to pay salaries or benefits to employees in the event the duration of such commitment is greater than ten (10) years. The affirmative vote of four (4) city commissioners shall not be required to approve any contract which is terminable at will by the city.

(c) The affirmative vote of four (4) city commissioners shall be required to approve any change in the terms of the city's pension plan which has the effect of increasing the actuarially accrued liability of the plan, as calculated by the plan's actuary.

Sec. 14. Establishment of retirement systems.

The city commission shall provide by ordinance for retirement systems for all employees of the city having permanent status.

Sec. 15. Establishment of boards.

(a) The city commission shall establish permanent boards by ordinance and ad hoc committees by resolution. Members of such boards shall serve without compensation and shall serve at the pleasure of the city commission for such terms as it deems necessary and desirable. When making appointments, preference shall be given to city residents. All appointees shall be advised in writing of their duties and responsibilities, attendance requirements, length of term, and applicability of the financial disclosure law. The city commission shall, by ordinance, establish a procedure for the appointment of all permanent board members and shall, by ordinance, further provide for any qualifications of appointment.

(b) The city commission may appoint a Charter Review Committee from time to time in its discretion to review all or specifically designated provisions of the Charter. However, the City Commission shall appoint a Charter Review Committee which has unlimited authority to review the City Charter at least once during the ten year period following the date of adoption of this section

and thereafter during every ten year period following the appointment of the last such Charter Review Committee. The City Commission shall by ordinance establish a procedure for the appointment of all Charter Review Committee members and shall by ordinance further provide for any qualifications for appointment.

Sec. 16. ~~Municipal services to consumers outside the city.~~ Reserved.

~~—The city commission is authorized to provide municipal services to persons, firms and corporations located outside the corporate limits of the city. Charges to such consumers shall be determined by the city commission or as provided by state statute, but in no event shall such charges be less than those charged within the corporate limits.~~

Sec. 17. Investigations.

The city commission shall have the power at any time to cause an investigation of the affairs of any department, division or employee of the city. For such purposes, the city commission shall have the power to compel the attendance of witnesses and the production of books, papers and other evidence through subpoenas issued in the name of the city and signed by the mayor, vice-mayor or acting mayor of the city. Any such processes issued may be served by any officer authorized by law to service process. The city commission in making such investigation shall have the power to cause testimony to be given under oath and shall have the power to apply to any court of competent jurisdiction to punish for contempt any person refusing to testify or to produce any books, papers, documents or other evidence under his/her control which relates to the matter under investigation.

Sec. 18. Penalties.

The city commission shall have the power to impose by ordinance such fines, penalties and forfeitures as it deems necessary for the enforcement of ordinances of the city.

Sec. 19. ~~Written Contracts.~~

~~The city commission shall approve all written contracts of the city except for specific contractual matters declared by ordinance of the city commission to be exempt from the requirements of this article. An exempting ordinance shall specify the policy to be followed to approve and execute a contract exempt from the provisions of this article.~~

ARTICLE V. CITY MANAGER

Sec. 1. Appointment and qualifications.

The city commission, by an affirmative vote of at least four (4) members, shall appoint a city manager who shall serve at the pleasure of the city commission. The city manager shall be appointed solely on the basis of professional qualifications. The city manager shall be employed by written contract and shall reside in the city.

Sec 2. Removal.

The city manager may be removed from office upon the affirmative vote of three (3) members of the city commission. Written notice of the removal action specifying the effective date of removal shall be promptly provided to the city manager.

Sec 3. Appointment of deputies.

The city manager may appoint deputies as may be necessary to carry out ~~his/her~~ the city manager's duties as provided in the table of organization as adopted by ordinance.

Sec 4. Appointment of department heads.

The city manager shall appoint department heads as provided in the table of organization as adopted by ordinance.

Sec 5. Powers and duties.

The city manager shall be the chief administrator of the city and shall be responsible to the city commission for the proper administration of all affairs of the city, including but not limited to those placed under his/her authority in this Charter. The city manager shall:

- (a) Supervise all governmental and proprietary functions of the city and all departments and divisions except the offices of the city auditor and clerk and the city attorney and as otherwise provided in this Charter.
- (b) Annually submit to the city commission a proposed balanced budget together with a table of organization of the city for the ensuing fiscal year, and a five year capital improvements program, the first year of which shall be included in the proposed balanced operating budget.

- (c) Submit the annual budget policy which shall include but not be limited to general policies and procedures for the type of budgeting system being used, and the preparation and maintenance thereof.
- (d) Keep the city commission advised of the financial needs of the city and coordinate long-range planning for the city.
- (e) Establish, with approval of the city commission, such other divisions of responsibility as may be necessary and proper for administering the affairs and performing municipal functions of the city.
- (f) Appoint, remove, discipline and administer the compensation and salaries for employees of the city, except for those employees in the Offices of the City Auditor and Clerk and the City Attorney, subject to the provisions of this Charter and in accordance with the ordinances and personnel rules and regulations of the city.
- (g) Promulgate such rules and regulations for appointment, promotion, discipline and removal of employees of the city (except appointees of the city commission); however, such rules and regulations shall not become effective until adopted by resolution of the city commission.
- (h) Attend city commission meetings, with a voice but not a vote in the proceedings.
- (i) Sign warrants for payment of monies for the city subject to requirements or ordinances of the city.
- (j) Be custodian of all real property and tangible personal property of the city.
- (k) Perform other duties and exercise other authority as necessary to the administration of the city, including the exercise of all duties and responsibilities prescribed by this Charter, by ordinances of the city, and by direction of the city commission.
- (l) Assume emergency management powers during a state of emergency as specified by ordinance to be adopted by the City Commission.. Said ordinance shall be in accord with the provisions of the Florida Statutes pertaining to the exercise of local emergency management powers and shall not require the City Commission to hold a prior special emergency meeting to confer such emergency management powers on the City Manager.

ARTICLE VI. CITY AUDITOR AND CLERK

Sec. 1. Appointment and qualifications.

The city commission, by an affirmative vote of at least four (4) members, shall appoint a city auditor and clerk who shall serve at the pleasure of the city commission. The city auditor and clerk shall be appointed solely on the basis of professional qualifications. The city auditor and clerk shall be employed by written contract and shall reside in the city.

Sec. 2. Removal.

The city auditor and clerk may be removed from office upon the affirmative vote of three (3) members of the city commission. Written notice of the removal action, specifying the date of removal, shall be promptly provided to the city auditor and clerk.

Sec. 3. Appointment of deputies.

The city auditor and clerk may appoint deputies as necessary to carry out ~~his/her~~ the city auditor and clerk's duties as provided for in the table of organization as adopted by ordinance.

Sec 4. Appointment of department heads.

The city auditor and clerk may appoint department heads as provided in the table of organization as adopted by ordinance.

Sec. 5. Powers and duties.

The city auditor and clerk shall:

- (a) Serve as clerk to the city commission and recorder of all its official actions-; keep a record of the proceedings, the correctness of which shall be certified to by a vote of the city commission to accept the record at a subsequent meeting.
- (b) Head the department of public records; be custodian of the official records of the city, including those that are in electronic format; be responsible for the proper administration of all affairs concerning the records of the city; ~~and~~ prescribe and be responsible for a system of review, retention and disposition of records of all governmental and proprietary functions of the city and all departments and divisions of the city- ; and prescribe and be responsible for a system of public access to such records.

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- (c) Make recommendations ~~or~~ and audit comments concerning ~~the records of all governmental and proprietary~~ functions of the city and all departments and divisions of the city. ~~annually or more frequently if required by the city commission.~~
- (d) Appoint, remove, discipline and administer the compensation and salaries for employees in the Office of the City Auditor and Clerk, subject to the provisions of this Charter and in accordance with the personnel rules and regulations of the city.
- (e) Serve as the election official for the city.
- (f) Attend city commission meetings and serve as the parliamentarian to the city commission.
- (g) ~~Serve as the parliamentarian to the city commission.~~ Prepare the agenda and supporting documents for all city commission meetings, including the publication of legal notices.
- (h) Serve as the ~~pension~~ administrator of the ~~General Employees Pension City's Retirement~~ Plans.
- (I) Authenticate documents of the city when required.
- (j) Maintain records of all the city's real property [and] assets and maintain a schedule of all outstanding bonds and other evidence of indebtedness.
- (k) Attest all written contracts and instruments on behalf of the city when required.
- (l) Administer oaths required or authorized under any law, the Charter, or ordinance of the city.
- (m) Sign warrants for payment of monies.
- (n) Countersign checks for payment of monies.
- (o) Provide for the continuing codification of all ordinances of the city.
- (p) Perform other duties as prescribed by law, by the Charter, by ordinance or resolution of the city, and by direction of the city commission.

- (q) Prepare an annual budget to be included in the city manager's proposed budget for consideration by the city commission during the annual budget workshops.

Sec. 6. Audit Function of accounts.

~~At the end of each fiscal year or more often as required by the city commission, the city auditor and clerk shall audit any accounts and records of the departments, officers and employees and all other accounts and records in which the city is interested. He/she shall at all times have access to and may inspect and make copies of all records relating to the receipt or expenditure of money on account with the city and of all vouchers, accounts, bills, warrants, drafts, contracts or other papers relating thereto.~~

With regard to auditing, the duties of the city auditor and clerk shall include, but not be limited to, reviewing, investigating, and evaluating systems of internal control to promote adequate safeguarding of assets, reliability of financial and operating information and compliance with laws and regulations. The city auditor and clerk shall have the authority to audit all operations, functions and divisions of the city and to recommend changes for improvements. The city auditor and clerk shall have full and unrestricted access to records, data, personnel and other information necessary to effectively carry out the auditing function.

ARTICLE VII. CITY ATTORNEY

Sec. 1. Appointment and qualifications.

The city commission, by an affirmative vote of at least four (4) members, shall retain or hire a city attorney who shall serve at the pleasure of the city commission. The city attorney shall be a member of The Florida Bar and shall have a minimum of five (5) years' experience in the practice of law. A city attorney hired as a permanent employee of the city shall be employed by written contract. The city attorney shall reside in the city.

Sec. 2. Removal.

The city attorney may be removed from office upon the affirmative vote of three (3) members of the city commission. Written notice of the removal action, specifying the date of removal, shall be promptly provided to the city attorney.

Sec. 3. Appointment of ~~assistants or~~ deputies.

~~(a) — A city attorney retained may appoint members of The Florida Bar as assistants to perform his/her duties.~~

~~(b) — A The city attorney hired as a permanent employee of the city may appoint members of The Florida Bar as deputies as provided for in the table of organization as adopted by ordinance to carry out ~~his/her~~ the city attorney's duties.~~

Sec. 4. Duties.

The city attorney shall:

- (a) Serve as legal advisor to the city, the city commission, and the governmental proprietary operations of the city and its departments, divisions, offices, boards and committees as assigned.
- (b) Prepare or review all proposed ordinances and resolutions of the city.
- (c) ~~Approve as to form and legal correctness~~ Prepare or review all written contracts entered into by the city when signatures of the mayor and city auditor and clerk are required and approve same as to form and correctness. No such contracts shall take effect until his/her the city attorney's approval is endorsed. The city attorney may authorize ~~an assistant~~ a deputy attorney to perform this duty during ~~his/her~~ the city attorney's absence.
- (d) Appoint, remove, discipline and administer the compensation and salaries for employees in the Office of the City Attorney, subject to the provisions of this Charter and in accordance with the ordinances and personnel rules and regulations of the city. (Only applicable if the city attorney is hired as a permanent employee)
- (e) Prosecute and defend all legal actions wherein the city is a party.
- (f) Serve as prosecuting attorney for the city in any court of competent jurisdiction.
- (g) Perform such other legal services as requested by the city commission, city manager, and city auditor and clerk.
- (h) Prepare an annual budget to be included in the city manager's proposed budget for consideration during the annual budget workshops.

ARTICLE VIII. BONDING

Sec. 1. General obligation bonds.

The city commission is hereby authorized and empowered to issue from time to time general obligation bonds of the city for any lawful purpose; including without limitation acquiring, constructing, maintaining, operating, improving, enlarging and extending improvements within or outside the corporate limits of the city as may be determined by the city commission; for refunding any preexisting bonded indebtedness; but general obligation bonds of the city (taking into account the city's outstanding general bonds) shall never be issued in an amount greater than ten (10) percent of the nonexempt assessed valuation of the real property of the city. In arriving at the amount of general obligation bonds outstanding in order to determine the amount of such bonds that may be issued, bonds which have been so refunded shall not be considered unless required by state law.

No general obligation bonds shall be issued by the city unless the issuance of such bonds shall have been approved by vote of a majority of the qualified electors of the city voting on the issuance of such bonds in an election, general or special. Such election shall be called, noticed and conducted, and the result thereof determined and declared in the manner required by law for the issuance of bonds of the city. No election shall be required to authorize the city to refund outstanding general obligation bonds and interest and redemption premium thereon unless such election is otherwise required by Florida law.

For the purpose of paying the principal and interest of the general obligation bonds issued under this section, it shall be the duty of the city commission to levy and collect at the same time and in the same manner as other taxes are collected in the city, upon all taxable property subject to taxation, a tax sufficient to pay the principal and interest of the said bonds as the same become due and payable.

Sec. 2. Revenue bonds.

The city commission is hereby authorized and empowered to issue and refund from time to time revenue bonds of the city payable solely from revenues to be derived by the city from the operation of any revenue-producing utility or facility owned and operated by the city or to be acquired or constructed by the city, or the combination of any such utilities and facilities, for the same purposes for which the city may issue general obligation bonds as authorized by this Charter, for the purpose of constructing or acquiring any of the utilities or facilities or performing any of the works or other matters set forth in this Charter or provided to be a municipal purpose under the laws of the State of Florida; and in the absence of any pledge of the ad valorem taxing power of the

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city, no election shall be required to authorize the city to issue any such revenue bonds.

Sec. 3. ~~Pledge of other revenue sources.~~ Reserved.

~~The city commission is hereby authorized and empowered to pledge to the payment of the principal of and the interest on any general obligation bonds or revenue bonds of the city provided to be issued under the provisions of this Charter any revenues to be derived by the city from the operation of any revenue producing utility or facility owned and operated by the city or to be acquired or constructed by the city, or the combination of any such utilities and facilities, and any non-ad-valorem revenue, including but not limited to utilities service taxes, franchise fees, sales tax, including grants, subsidies, or other funds to be made available by the State of Florida or the United States government. The city commission is also authorized and empowered to issue bonds payable from or secured by such non-ad-valorem revenue mentioned herein for any lawful purpose. In addition to the powers specifically granted by this section, the city commission shall have all the powers to issue bonds, notes or other obligations of the city and to pledge the funds, credit and property of the city for the payment or redemption thereof granted by any and all general laws of the state applicable to municipal corporations; and no election shall be necessary to authorize the city to issue any such bonds, notes or other obligations except as to such bonds, notes or other obligations except as to such bonds, notes or other obligations an election for the issuance of which is required by the constitution of the state.~~

Sec. 4. ~~Sale of bonds.~~ Reserved.

~~The general obligation bonds and the revenue bonds and any other bonds, notes or other obligations authorized by to this Charter, hereof (hereinafter in this section collectively called the "bonds") shall be sold at public sale unless the city commission shall determine that any such revenue bond shall be sold at private sale, in which event the same may be sold at private sale. Preliminary to any public sale, the city commission, by resolution, shall briefly describe the bonds that will be offered for sale, the purpose for which the same will be issued, and the character of the security therefore; shall affirmatively determine that necessity exists for making such sale; and shall direct the city auditor and clerk to advertise for sealed bids for the purchase of the bonds to be sold unless the city commission shall have determined that such bonds be sold at private sale. Thereupon the city auditor and clerk shall cause an advertisement for sealed bids for the purchase of said bonds to be published at least once prior to the day of sale in a newspaper of general circulation in the City of Sarasota. In such advertisement, notice shall be given that the right is reserved to reject any and all bids; that no interest rate exceeding the maximum rate then permitted under the laws of the state, computed with~~

~~relation to the absolute maturity of the bonds in accordance with standard tables of bond values, shall be considered. The city commission may determine that bids be accompanied by a check as evidence of good faith and as liquidated damages to the city in the event of acceptance and subsequent failure to perform; and, if such a check is to be delivered, the city commission may determine the amount of said check which may not exceed two (2) percent of the par value of the bonds to be sold. All participating bids shall be received by the time designated therefore, and at that time shall be opened by the officer designated by the city commission for such purpose and presented by such officer to the city commission for action thereon at a regular meeting, or at a special meeting called by it and held for the purpose of acting upon such bids.~~

Sec. 5. Further provisions applicable to bonds.

~~The general obligation bonds and the revenue bonds and any other bonds, notes or other obligations authorized by this Charter hereof (hereinafter in this section collectively called the "bonds") shall mature at such time or times as may be determined by the city commission, may be made redeemable before maturity, at the option of the city, at such price or prices and under such terms and conditions as may be fixed by the city commission prior to the issuance of the bonds. Bonds of the city may bear interest at a rate or rates that are fixed or variable and, if variable, such bonds shall contain a recitation of the method of calculation or determination of such interest rate. The city commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds and coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without to the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery; and also any bond may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution of such bond shall be the proper officers to sign such bond although at the date of such bond such persons may not have been such officers. Notwithstanding any other provision of this section or any recitals in any bonds issued under the provisions of this section, all such bonds shall be deemed to be negotiable instruments under the laws of the state. The bonds may be issued in coupon or in registered form, or both, as the city commission may determine; and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest and for the interchange of coupon and registered bonds. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law. Prior to the~~

~~preparation of definitive bonds, the city may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for delivery. The city commission may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.~~

~~In connection with the management of its debt program, the issuance of its bonds and its investment program, the city may bonds issued by the city, the city shall not enter into any type of derivatives. For this purpose, a "derivative" is defined as a financial management instrument or contract, which shall include, but not limited to: instrument, the value of which depends on, or is derived from, the value of one or more underlying assets or index or asset values.~~

- ~~(a) any contract known as or referred to or which performs the function of an interest rate swap agreement, currency swap agreement, forward payment conversion agreement or futures contract;~~
- ~~(b) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices;~~
- ~~(c) any contract to exchange cash flows or payments or a series of payments;~~
- ~~(d) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate, or other financial risk; and any other type of contract or arrangement that the city commission determines is to be used, or is intended to be used, to manage or reduce the cost of debt, to convert any element of debt from one form to another, to maximize or increase investment return, to minimize investment return risk, or to protect against any type of financial risk or uncertainty.~~

~~The city commission shall be permitted to delegate to the city manager of the city, or his designee, the power to take any or all of the actions set forth above in this section, including specifically the right to award bonds authorized to be issued, to fix all details of bonds, including the amount, maturity and amounts of each maturity, interest rates, redemption features, and to execute all documents necessary therefore; provided, however, as a condition to any such delegation, the city commission shall establish standards to be met prior to such official taking of any action pursuant to any such delegation.~~

Sec. 6. Authority as to bonds supplemental.

The authority granted to the city by the Charter inclusive of this article to issue general obligation bonds, revenue bonds and other bonds, notes or other obligations shall be deemed to provide an additional and alternative method for the doing of the things authorized ~~hereby~~ by other laws and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing or hereafter provided under any other law, either general, special or local.

**ARTICLE IX. NOMINATIONS
ELECTIONS AND REFERENDA**

Sec. 1. Eligibility and registration to vote.

(a) All qualified electors under the laws of the State of Florida who have resided in the city for the period prescribed by law and have registered according to law shall be entitled to vote in elections in the city.

(b) Registration of electors for all elections in the city shall be conducted by the supervisor of elections of Sarasota County, Florida, unless otherwise prescribed by law or by ordinance of the city.

Sec. 2. Qualifying for office.

Candidates for the office of city commissioner shall qualify by filing for the office with the city auditor and clerk at such time and in such manner as prescribed by ordinance.

Sec. 3. Vacancy in candidacy.

If a candidate who has qualified to run for office in a regular or special election should die, withdraw, or for any other reason cease to be qualified for the city commission seat, the election shall proceed if at least two (2) qualified candidates remain. If fewer than two (2) qualified candidates remain, the provisions consistent with Article III, Section 5~~(a)~~, for filling of vacancies shall apply.

Sec. 4. Conduct of elections.

(a) All elections for the office of city commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation.

(b) The city commission shall by ordinance or resolution establish polling places, cause notice to be given to the public as to elections and prescribe

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other election details; however, except as provided in this Charter and by such ordinance or resolution of the city commission, all elections shall be conducted generally as prescribed by law for state and county elections.

(c) No candidate for the office of City Commissioner shall accept a campaign contribution, in cash or in kind services, which would exceed the aggregate amount of Two Hundred Dollars (\$200.00) from any single contributor for each election. For purposes to this section, the terms “candidate” and “contribution” shall have the meanings ascribed to those terms by Chapter 106, Florida Statutes, as amended from time to time. For purposes of this section, those elections referred to in this Charter as the “first election” and the “second election” shall be considered separate elections. The campaign contribution limits contained in this section shall not apply to contributions from political parties or to amounts contributed by a candidate to his or her own campaign.

(d) No candidate for the office of City Commissioner shall accept a campaign contribution from any contributor, other than a natural person. For purposes of this section, a natural person shall mean any human being other than an unemancipated child under the age of eighteen (18).

(e) Candidates for the office of City Commissioner shall cause their last period candidate treasurer’s reports to be hand delivered to the Office of the City Auditor and Clerk by no later than 5:00 p.m. on the ~~sixth~~ fourth day prior to the date of the election. This deadline may not be extended by the use of a post mark or other courier receipt.

Sec. 5. Elections.

(a) *District seats.*

- (1) The three (3) city commissioners elected by district shall occupy numbered seats on the commission designated as seats one, two and three, with each seat corresponding to the number of the district from which the district commissioner was elected.

When two (2) or more persons qualify as candidates for one (1) of the three (3) district seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the second Tuesday in March, to be known as the first election. With respect to each district seat, the candidate who is supported by a majority of the voters shall be declared elected.

If no candidate is supported by a majority of the voters in the first election, with respect to any district seat, a second election for that district seat shall be held on the second Tuesday in ~~April~~ May. The

two (2) candidates receiving the highest number of votes cast in the first election shall have their names placed on the ballot for the second election. The candidate receiving the support of a majority of the voters in the second election, in his or her respective district, shall be declared elected.

- (2) When only one (1) person qualifies as a candidate for a district seat on the city commission the name of such person shall not appear on the ballot, and such person shall be declared elected and shall assume office at the same time and in the same manner as if elected in the regular city election.

(b) *At-large seats.*

- (1) The two (2) city commissioners elected at large shall occupy numbered seats on the commission to be designated as seats four and five. Candidates running for an at large seat on the city commission shall specify the numbered seat for which they are a candidate at the time they qualify to run for office.

~~When three (3) or more persons qualify as a candidate for the office of city commissioner for the two (2) at large seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election held on the second Tuesday in March, to be known as the first election. The two (2) candidates receiving the highest number of votes cast in the first election who have also received the support of a majority of the voters shall be declared elected.~~

When two or more persons qualify as candidates for either one of the two at large seats on the city commission, the qualifiers shall have their names placed on the ballot as a candidate for either seat four or seat five at the city election to be held on the second Tuesday in March, to be known as the first election. With respect to each at large seat, the candidate who is supported by a majority of the voters shall be declared elected.

~~If no candidate receives the support of a majority of the voters in the first election, a second election shall be held, on the second Tuesday in April, to fill the two (2) at large seats. The three (3) candidates receiving the highest number of votes in the first election shall have their names placed on the ballot for the second election.~~

If no candidate is supported by a majority of the voters in the first election, with respect to either at large seat, a second election for that numerically designated seat shall be held on the second Tuesday in May. The two candidates receiving the highest number of votes cast in the election for that numerically designated at large seat shall have their names placed on the ballot for the second election. The candidate receiving the support of a majority of the voters in the second election shall be declared elected to occupy the numerically designated at large seat.

~~In the event that only one (1) candidate receives the support of a majority of the voters in the first election, the second election shall be held to fill one (1) at large seat. The two (2) candidates receiving the support of the second and third highest number of voters, in the first election, shall have their names placed on the ballot for the second election.~~

~~In the second election any at large seat that has not been filled by the election of a candidate who receives the support of a majority of the voters after the second election shall be filled by declaring the candidate or candidates elected who have received the highest number of votes cast in the second election.~~

- (2) When only one (1) ~~or two (2)~~ persons ~~qualify~~ qualifies as a candidates for an at-large seat on the city commission, the names of such persons shall not appear on the ballot, and such persons shall be declared elected and shall assume office at the same time and in the same manner as if elected in the first election.

~~The minimum number of votes required for a candidate for an at-large seat to receive the support of a majority of the voters, as required herein, shall be a number which is equal to half the number of persons voting (as indicated by valid ballots cast) plus one (1).~~

- (c) *Commencement and length of term.* Persons elected to the city commission shall assume office on the third day following the second Tuesday in ~~April~~ May. Each person elected shall hold office for four (4) years.

Sec. 6. Canvass of returns; certificates of election.

- (a) A municipal elections Canvassing Board shall canvass the returns of each city election in accordance with the Florida Election Code. The Canvassing Board shall consist of the following three (3) members:

- (1) the city auditor and clerk or a deputy city clerk in the event of the absence or unavailability of the city auditor and clerk;
- (2) the city attorney or a deputy city attorney in the event of the absence or unavailability of the city attorney;
- (3) an individual appointed by the city commission prior to each election; provided that any member so appointed shall not be a candidate with opposition in the election being canvassed.

(a) (b) The result of the voting at elections or referendum, when ascertained, shall be certified by the supervisor of elections of Sarasota County and delivered to the city auditor and clerk. The city commission, at a meeting to be held on the third day following the election, shall declare by resolution the official results of the election or referendum.

(b) (c) The city auditor and clerk shall, not later than 12:00 noon on the third day after the election, furnish a certificate of election to each person shown to have been elected to the office of city commissioner.

Sec. 7. Recall elections.

Any person who has been elected to the office of city commissioner may be removed from the office by a recall election. The recall election(s) shall be conducted as prescribed by the election code of the State of Florida [F.S. § 97.011 et seq.] as set out in the Florida state statutes.

Sec. 8. Referendum on issuance of certificates of participation and certain revenue bonds.

a) ~~Any referendum on the question of issuance of bonds whereby the faith and credit of the city is to be pledged to their repayment shall be conducted as prescribed by law and by ordinance or resolution of the city commission authorizing the issuance of such bonds.~~ Certificates of participation of the city shall not be issued for any purpose until the question of issuing such certificates of participation shall have been decided in favor thereof by a majority vote of the electors at a referendum held for that purpose in the manner provided by Florida law and by ordinance or resolution of the city commission.

b) Bonds of the city utilized to finance or refinance tourism facilities and which are secured by taxes or other revenues of the city, shall not be issued until the question of issuing such bonds shall have been decided in favor thereof by a majority vote of the electors at a referendum held for that purpose in the manner provided by Florida law and by ordinance or resolution of the city commission. For purposes of this subsection, "tourism facilities" means

property or improvements thereon used for or useful in connection with zoos, zoological gardens, conference/convention centers, theme/amusement parks, museums or professional sports facilities.

ARTICLE X. CHARTER AMENDMENTS

Sec. 1. Proposal of amendments.

(a) Alternative Methods to Initiate Amendment:

Amendments to this Charter may be framed and proposed:

- (1) By ordinance adopted by the city commission setting forth the full text of the proposed amendment.
- (2) By written petition or petitions to the city commission initiated by the electors setting forth the full text of the proposed amendment and signed in person by qualified electors of the city equal to at least ten (10) percent of the total number of qualified electors registered to vote at the preceding regular at-large city election. In the event such written petition proposes an amendment to more than one section of the Charter, the petition shall contain a clear and concise summary of the material components of the proposal. All required signatures to petitions initiated by the electors must bear the dates on which each signature is affixed, and all required signatures must be affixed within a period of ~~ninety (90)~~ one hundred eighty (180) days prior to the date such petition is submitted to the office of the city auditor and clerk for presentation to the city commission.

(b) Action by City Commission:

In the event a proposed Charter amendment is initiated by the city commission in accordance with Section 1A(1) above or in the event a petition containing the required number of signatures has been certified and submitted in accordance with Section 1B(2) above; then within thirty (30) days thereafter, the city commission shall adopt an ordinance; (1) providing for the date of the referendum to be held on the proposed Charter amendment, which referendum may be scheduled at a special election or a general election; (2) providing for the language to appear on the ballot at the referendum and (3) providing for the effective date of the amendment in the event the same is approved by the voters. Such ordinance shall also schedule the referendum for a date which is no

earlier than ninety (90) days following its adoption and no later than the next general election to be held in the city.

Sec. 2. Referendum on Charter amendments.

(a) Any proposed amendment to the Charter requiring a referendum shall be submitted to a vote by the electors of the city and may be presented by title, which may differ from its legal title, but in either event shall contain a clear and concise summary describing the substance of the proposed amendment. Below the ballot title and summary shall appear:

_____ For the Amendment
_____ Against the Amendment

(b) Before any proposed amendment to this Charter is submitted to the electors, the entire text of each article proposed to be amended shall first be published in blackline format (i.e. with proposed deletions stricken through and proposed additions underscored), not less than thirty (30) days nor more than sixty (60) days prior to the date of the referendum, in a newspaper of general circulation in the city.

Sec. 3. Adoption of amendment.

Any proposed amendment to the Charter adopted by a majority of the qualified electors of the city voting in such referendum shall become effective at the time fixed in the enabling ordinance required by Sec. 1 of this Article, or if no time is therein fixed, thirty (30) days after its adoption by the electors.

ARTICLE XI. MISCELLANEOUS PROVISIONS

Sec. 1. Indemnification.

The city commission shall provide for the indemnification of its members, the Charter officers, employees and persons appointed as board or ad hoc committee members for liability arising out of the performance of their duties on behalf of the City of Sarasota. The provisions of the indemnification, including those acts for which the indemnity will be provided and the extent of the indemnification, shall be solely within the discretion of the city commission.

Sec. 2. Oath of office.

Every elected or appointed official, board member and ad hoc committee member serving the city, before entering upon the duties of the office, shall take and subscribe to an oath in the form required for state and county officers

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under the laws of the state. Such oath shall be filed in the office of the city auditor and clerk.

Sec. 3. Separability clause.

If any article or any part thereof of this Charter as it now exists or as it may be amended is held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not invalidate or impair the validity, force or effect of any other article or part thereof, or any other section or part thereof, unless it clearly appears that such other article or part thereof, or section or part thereof, is wholly or necessarily dependent for its operation upon the article or part thereof, or section or part thereof, held to be invalid or unconstitutional.

~~Sec. 4. Alternative minimum wage requirements for certain employers.~~

~~(a) — Purpose. The purpose of this section is to ensure that when taxpayer-financed benefits are extended by the city to private businesses, they are used to benefit the interests of the city as a whole, by creating jobs that keep workers and their families out of poverty. This section therefore requires businesses benefiting from city financial assistance to pay their employees a wage that will enable a full time worker to support a family at a level that meets basic needs and avoids economic hardship.~~

~~(b) — Definitions. For purposed of this section:~~

~~(1) — “Employee” means any individual who performs work on a full-time, part-time, temporary, or seasonal basis, including permanent workers, temporary workers, contracted workers, contingent workers and persons made available to work through services of a temporary service, staffing or employment agency or similar entity.~~

~~(2) — “Employer” means any individual, partnership, corporation, limited liability company, sole proprietorship, association, joint venture, estate, trust, and any other entity, group or combination acting as a unit, and the individuals constituting such group or unit.~~

~~(3) — “Fiscal year” means October 1 through September 30.~~

~~(4) — “Alternative minimum wage” means, for any given fiscal year, an hourly wage equal to the federal poverty level for a family of four (4), as updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902, or its successor, as of the July 1 immediately preceding the start of the fiscal year, divided by 2,080 and rounded to two decimal places.~~

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~~(5)(A) “Subsidy or tax abatement” means something of economic value, awarded or conveyed to an employer by or through approval of the city. A subsidy or tax abatement includes, but is not limited to, any of the following: contributions or donation of funds; real property or tangible personal property without equivalent consideration; payments for goods provided or services rendered in an amount that exceeds the fair market value for such goods or services; provision of goods, rendering of services or provision of funds or resources necessary for such provision or rendering, when such goods or service inure to the benefit of any private interest; below market rate loans; deferrals or reductions of payments due on a loan; reduction in the interest rate of a loan; tax incentives; reduction of or credit towards a tax assessment; fee waivers; tax increment financing; bond financing; rent subsidies; land write-downs (i.e. the donation, sale, lease, assignment, or transfer of land at less than fair market value of property); rebates; contingent obligations assumed by the city, such as any guarantee; and the provision of tangible personal property such as materials, equipment, fixture, merchandise, inventory, or machinery,~~

~~—(B) Subsidy or tax abatement does not include generalized financial assistance, such as that provided through broadly applicable tax reductions; city staff assistance in and of itself; or entry into a contract with the city to provide goods or services at fair market value.~~

~~—(C) Whenever any thing of economic value described in sub paragraph (A) is to be divided into or distributed in identifiable parts, including but not limited to installments, stages, shares, or billable portions, subsidy or tax abatement shall refer to each individual part and not to the set of such parts in the aggregate/~~

~~(6) —“Subsidies and tax abatements” means the plural form of subsidy or tax abatement.~~

~~(7) —“Direct” means, for any given subsidy or tax abatement:~~

~~A) — if funds, appropriated by the city, but not subsequently appropriated by another unit of government; or~~

~~B) — if other than funds, approved by the city, but not subsequently approved by another unit government. A subsidy or tax abatement shall be considered to be a direct subsidy or tax~~

~~abatement regardless of any involvement by a private or quasi-governmental intermediary or agent subsequent to appropriation or approval by the City~~

~~(8) “Received” means, for any given subsidy or tax abatement:~~

~~(A) if funds, the date said funds are disbursed to the employer;
or~~

~~(B) if other than funds, the earliest date the employer acquires the ability to derive benefit from the subsidy or tax abatement.~~

~~(9) “Extended benefit amount” means the total (gross) amount or value of a subsidy or tax abatement, less the fair market value of any goods provided or services rendered as a condition of receipt of said subsidy or tax abatement, as of the date the subsidy or tax abatement is received, except that any goods provided or services rendered that inure to the benefit of any private interest shall count towards the extended benefit amount. For purposes of this section, inurement to the benefit of a private interest does not preclude the simultaneous fulfillment of a broader public purpose such as economic development.~~

~~(10) “Extended benefit period” means, for any given subsidy or tax abatement, a period of four consecutive fiscal years commencing October 1 of the fiscal year immediately following the date on which said subsidy or tax abatement is received, except that if the total of the extended benefit amounts of all direct subsidies and tax abatements received during the same fiscal year does not exceed \$1000,000, there is no extended benefit period.~~

~~(11) “Covered employee” means any employee of an employer who must be paid an hourly wage not less than the federal minimum wage by said employer pursuant to the Federal Fair Labor Standard Act, as amended, and who performs work for said employer a total of five (5) or more hours per week at locations within Sarasota city limits or for purposes that pertain to the specific purpose for which a direct subsidy or tax abatement was awarded or conveyed by the city.~~

~~(c) Alternate minimum wage for city subsidized employers.~~

~~(1) For any given fiscal year, an employer shall be considered to be city subsidized for purposes of this section:~~

~~(A) as of October 1, if the fiscal year coincides with the unexpired extended benefit period for any direct subsidy or tax abatement received from the city; or~~

~~(B) as of the earliest date such that the total of the extended benefit amounts for all direct subsidies and tax abatements received from the city during said fiscal year exceeds \$100,000.~~

~~All direct subsidies and tax abatements received from the city after the effective date of this section shall be considered for purposes of this subsection, except as provided in subsection (j). Overlapping extended benefit periods shall run concurrently.~~

~~(2) An employer designated as city subsidized during the fiscal year shall at a minimum retain such status until the end of said fiscal year. Such status may be extended into the next fiscal year in accordance with paragraph (1) of this subsection. However, no employer may be designated as city subsidized retroactively.~~

~~(3) Every city subsidized employer with fifty (50) or more covered employees shall pay all such covered employees an hourly wage not less than the alternate minimum wage for all work that is performed at locations within Sarasota city limits or that pertains to the specific purpose for which a direct subsidy or tax abatement is awarded or conveyed by the city, except that an employer not considered city subsidized as of the preceding October 1 shall implement the alternate minimum wage within thirty (30) days of the date the subsidy or tax abatement requiring designation as a city subsidized is received.~~

~~(d) Notice to prospective city subsidized employers.~~

~~Any notice, agreement or contract that offers or obligates a direct subsidy or tax abatement to any employer shall include notification of the applicability and requirements of this section, including the fact that a violation of this section shall constitute a material breach of any such agreement or contract. Failure on the part of the city to provide such notification shall not exempt the employer from such requirements.~~

~~(e) Annual determination and notification of city subsidized employers.~~

~~Not later than August 1 of each year, the city manager shall inform all employers known to be designated as city subsidized for the next fiscal year of their status, the revised alternate minimum wage and other requirements of this section. The city manager shall at such time also~~

~~provide such employers with a notice clearly stating the revised alternate minimum wage and the requirements of this section to employees. The information on the notice shall be provided in both English and Spanish and shall include a telephone number and World Wide Web URL maintained by the city, to which employees and other parties seeking additional information may be directed.~~

~~(f) Posted notice to employees~~

~~Every city subsidized employer shall ensure that the notice to employees described in paragraph (e) is visibly and continuously posted in close proximity to other employer notices, wherever such notices are posted.~~

~~(g) Monitoring and reporting.~~

~~(1) The city manager shall monitor the compliance of city subsidized employers with the provisions of this section.~~

~~(2) At the request of the city manager, a city subsidized employer shall:~~

~~(A) provide satisfactory proof of compliance with the provisions of this section.~~

~~(B) provide payroll records or other documentation within ten (10) business days of receipt of the city's request.~~

~~(3) Within 30 days of the end of each fiscal year, every employer designated as city subsidized for any portion of said fiscal year shall submit to the city manager a report containing all requested information, including but not limited to the monthly average number of covered employees and the monthly average number of such employees whose wages were affected by this section.~~

~~(4) By February 1 of each year beginning in 2008, the city manager shall submit a report to the city commission containing at a minimum a compilation of information collected pursuant to paragraph (3) of this subsection as well as a summary report of all violations of this section.~~

~~(h) Retaliation prohibited.~~

~~It shall be unlawful for a city subsidized employer or any other party to discriminate in any manner or take adverse action against any party in retaliation for exercising rights protected under this section. Rights~~

~~protected under this section include, but are not limited to, the right to file a complaint or inform any party about any alleged noncompliance with this section, and the right to inform any individual of his or her potential rights under this section and to assist him or her in asserting such rights.~~

~~(i) Violations.~~

~~(1) Any violation of the provisions of this section shall constitute a material breach of any agreement or contract governing the provision of a subsidy or tax abatement to a city subsidized employer.~~

~~(2) Any city subsidized employer determined by the city manager in his or her whole sole discretion to be in violation of any provision of this section shall:~~

~~(A) if a first violation of this section, receive a warning notice and immediately pay all current and former covered employees all past due wages earned pursuant to this section.~~

~~(B) if a second or subsequent violation of this section, the employer shall remit to the city an amount equal to ten (10) percent of the extended benefit amount of any direct subsidy or tax abatement considered in the determination of the employer's status as city subsidized pursuant to subsection (c), and pay all current and former covered employees all past due wages earned pursuant to this section.~~

~~(C) if a third or subsequent violation of this section, and such violation is determined by the city manager in his or her sole discretion to be deliberate in nature, the employer shall, in addition to incurring penalties pursuant to sub paragraph (B), additionally forfeit any subsidy or tax abatement not yet received and shall thereafter be ineligible to receive any subsidy or tax abatement from the city for a period of five (5) years from the date of such determination.~~

~~(3) Any covered employee or his or her representative may submit a complaint or report of a violation of this section to the city manager. Upon receipt of such a complaint or report, the city manager shall investigate to determine if a violation has occurred. The investigation shall be resolved within ninety (90) days.~~

~~(j) Exemptions.~~

- ~~(1) Any city-subsidized employer that is a not-for-profit corporation organized and operated exclusively for charitable purposes and that is both exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and in compliance with the registration and reporting requirements of Chapter 496, Florida Statutes, as amended, shall be exempt from the requirements of this section.~~
- ~~(2) Any subsidy or tax abatement received from the city that is provided solely and directly for the provision of affordable housing to city residents shall be exempt from consideration for purposes of this section.~~
- ~~(3) The city commission may grant any employer a partial or complete exemption from the requirements of this section only in the event that the city commission finds that an application of this section that would cause an unremediable violation of federal or state statutes or regulations.~~

~~(k) Effective date.~~

~~This section shall take effect thirty (30) days after enactment by the voters. (Passed November 6, 2007)~~

ARTICLE XII. TRANSITIONAL PROVISIONS

Sec. 1. Title to property reserved to municipality.

The title, rights and ownership of property, uncollected taxes, dues, claims, judgments, decrees, liens, suits, actions and rights in action held or owned by the municipality shall continue to be vested in the municipality upon the adoption of this Charter. No pending cause shall be abated by reason of the adoption of this Charter.

Sec. 2. Obligation of contracts preserved.

No debt or contract of the municipality, including bonds heretofore issued, shall be impaired or avoided by to the adoption of this Charter; but all such debts and obligations shall continue to be binding upon the municipality following to the adoption of this Charter.

Sec. 3. Transition.

Adopted Charter 2007

All commissioners, the city manager, the city auditor and clerk, and the city attorney of the city shall continue to hold their respective offices and to discharge the duties thereof until their successors are elected or appointed under the provisions of this Charter. ~~Residency requirements for the city attorney shall not be retroactive.~~

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF JANUARY 11, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Elmer Berkel, Arthur Levin, Virginia Hoffman-Meketon, Chris Jaensch (arrived at 6:40), Jim Lampl, John Patterson, and Shannon Snyder, City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: Member Hank Battie

The meeting was called to order at 6:00 p.m.

1. CITIZENS' INPUT CONCERNING CHARTER REVIEW TOPICS (AGENDA ITEM I)

No one signed up to speak.

2. APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF NOVEMBER 30, 2010 (AGENDA ITEM II)

Chair Serrie noted Committee consensus to approve the minutes of the Charter Review Committee 2010 meeting of November 30, 2010.

3. STATUS REPORT RE: INTERIM REPORTS MADE TO THE CITY COMMISSION ON OCTOBER 14, 2010 AND DECEMBER 6, 2010 (AGENDA ITEM III)

Chair Serrie gave an update of the interim reports to the City Commission on October 14 and December 6, 2010.

Member Levin stated that the interim report of December 6, 2010, indicates the vote for the Committee's recommendation was unanimously in favor; however, he voted against the recommendation.

City Auditor and Clerk Nadalini stated that the minutes of the Charter Review Committee meeting will reflect Member Levin's vote against the Committee's recommendation.

Chair Serrie stated that the Commission did not accept the Committee's recommendation to move forward with a referendum to delete Section 4, Alternative Minimum Wage, Article IX, City Charter, at this time; that a motion was made by Commissioner Clapp to accept the recommendation which failed for lack of a second; that some of the Commissioners were not opposed to the recommendation; however, a majority did not wish to proceed with only this issue from the City Charter on the next ballot.

4. DISCUSSION RE: ARTICLE VIII, BONDING (AGENDA ITEM IV)

Christopher Lyons, Director of Financial Administration, and Duane Draper, Attorney, Bryant Miller Olive, came before the Commission.

Mr. Lyons distributed proposed language for Article VIII, Bonding, and Sec. 8, Article IX, Nominations Elections and Referenda.

Sec. 1, General Obligation Bonds
Sec. 2, Revenue Bonds.\

Mr. Lyons stated that the first recommendation was to eliminate both sections as redundant of State law with the exception of the 10 percent limitation on bonding which is a limitation not imposed by State law; however, upon reflection, some general language concerning General Obligation Bonds and Revenue Bonds is recommendation for inclusion in the City Charter.

Discussion ensued concerning the value of the City's current outstanding bonds, the value of the nonexempt assessed valuation of the real property in the City, the requirement under State law for voter approval of all General Obligation (GO) bonds, the possibility of changes in the State law regarding

bonding requirements, the information included in the proposed Sec. 1 and 2, Article IX, Bonding, the meaning of the addition of the phrase “without limitation”; the meaning of the phrase “from time to time.”

Chair Serrie noted Committee consensus to delete the following phrases from the first sentence of Sec. 1, Article VIII, City Charter:

- from time to time
- including acquiring, constructing, maintaining, operating, improving, enlarging and extending improvements within or outside the corporate limits of the city as may be determined by the city commission

Discussion ensued concerning a possible requirement that a referendum concerning bonding would only be placed on the ballot of a regular election and the applicability of State law.

Sec. 3, Pledge of Other Revenue Sources

Sec. 4, Sale of Bonds

Mr. Lyons stated that the recommendation is to delete both sections from the City Charter; that the section numbers will be reserved for use in the future as necessary.

Sec. 5, Further Provisions Applicable to Bonds

Mr. Lyons stated that most of the language in the section is recommended for deletion from the City Charter with the exception of adding language prohibiting the City’s use of derivatives as defined in the proposed section.

Following discussion concerning the proposed language, Mr. Lyons stated that the language in the first sentence will be changed to read:

The City shall not enter into any derivatives in connection with bonds issued by the city.

Sec. 6, Authority as to Bonds Supplemental

Member Patterson stated that the use of the phrase “either general, special or local” to describe laws is unnecessary as the phrase “by other laws” is all inclusive.

Mr. Lyons stated that the descriptive phrase “either general, special or local” will be deleted; and continued that changes are also recommended in Article IX, Nominations Elections and Referenda, City Charter.

Sec. 8, Referendum on Issuance of Bonds

Mr. Lyons stated that the initial revision provided in the Agenda backup material included performing arts halls in the definition of property used as “tourism facilities”; that the current revision eliminates performing arts halls from the definition; that in general, any restriction is not favored as State law governs the issuance of General Obligation Bonds.

Mr. Draper stated that restrictions included in the City Charter have a permanency other restrictions imposed by ordinance do not.

Member Jaensch arrived in the Chambers.

Discussion ensued concerning the County as a home rule jurisdiction, the requirement to use funds from bonding for a public purpose, citizens’ expectations of a public process, limitations on certificates of participation, the use of certificates of participation especially by school boards for schools and other facilities, and bifurcation of the issues in Section 8 to: 1) certificates of participation and 2) possible limitations on bonds.

A motion was made by Member Patterson, seconded by Member Snyder, to require the same approval for certificates of participation of the City secured by taxes or other revenues shall not be issued until the question of issuing shall have been decided in favor by a majority vote of the electors at an election held for that purpose in the manner provided by State law and local ordinances, and carried by a 9-0 vote.

A motion was made by Member Patterson and seconded by Member Levin not to accept the proposed language regarding limitations and no additional limitations be imposed on bonding.

Discussion ensued concerning limitations on the use of Revenue Bonds and the definition of the term "tourism facilities."

Chair Serrie called for a vote on the motion which carried by a 9-0 vote.

In response to a request for clarification from Mr. Lyons concerning the 10 percent limitation on bonding, Chair Serrie noted Committee consensus not to change the 10 percent limitation currently in the City Charter.

A motion was made by Member Patterson, seconded by Member Snyder, to approve the changes discussed, and carried by a 9-0 vote.

Mr. Lyons stated that the publishing requirement for the annual audit is for a notice.

Chair Serrie noted Committee consensus not to change the publishing requirement for the annual audit.

The Committee recessed at 7:15 p.m. and reconvened at 7:20 p.m.

5. **APPROVAL RE: PROPOSED NEW CHARTER PROVISIONS (AGENDA ITEM V)**
***ARTICLE III. CITY COMMISSION**
***ARTICLE IV. POWERS AND DUTIES OF CITY COMMISSION**

City Attorney Fournier stated that five provisions in Article III, City Commission, were included for discussion:

Sec. 5, Filling Vacancies

Mr. Fournier stated that the residency requirement is determined from the date the vacancy is confirmed by the Commission; that the section has been revised to add requirements individuals elected or appointed to fill a vacancy as follows:

An individual elected, appointed by the City Commission or appointed by the Governor to fill a vacancy in an at large commission seat shall have been a resident and a qualified elector of the City for a minimum of one (1) year immediately preceding the date the vacancy was confirmed by the remaining commissioners in accordance with this section.

An individual elected, appointed by the City Commission or appointed by the Governor to fill a vacancy in a district commission seat shall have been a resident and a qualified elector of the district represented by the commissioner in that seat for a minimum of one (1) year immediately preceding the date the vacancy was confirmed by the remaining commissioners in accordance with this section.

Sec. 9(a), Meetings.

Mr. Fournier stated that Section 9(a) has been revised to allow waiving the requirement for the Commission to meet once a month with an affirmative vote of four Commissioners as follows:

The City Commission may waive this requirement to hold two regular meetings each month by super majority vote. In the event of such waiver, the Commission may decide to hold one regular meeting during that particular month or decide not to hold a regular meeting during that month.

Following discussion, Chair Serrie noted Committee consensus to change the phrase “super majority vote” to “affirmative vote of four Commissioners.”

Mr. Fournier stated that the Article IV, Powers and Duties of City Commission, is revised as follows to indicate the City Manager does not have responsibility for employees who report to the City Auditor and Clerk or the City Attorney:

Sec. 8(a)(1), Appointment and removal of city officers and employees

The City Manager shall have the sole authority for the appointment and the removal of administrative officers and employees of the city other than employees who report to the City Auditor and Clerk and or the City Attorney who shall be appointed and removed by the City Commission.

Following discussion, Mr. Fournier stated that the words “sole” and “administrative officers” will be deleted from Sec. 8(a)(1) to assure clarification.

Mr. Fournier stated that in accordance with the Commission’s direction, Section 11 has been revised to allow an alternative of insurance coverage for surety bonds as follows:

Sec. 11, Surety bonds or insurance

Annually, the City Commission shall either: (1) require the City Manager, the City Auditor and Clerk, a City Attorney hired as a permanent employee, and the Director of Financial Services to each give bond with authorized corporate sureties, conditioned upon the faithful performance of their duties; or (2) purchase insurance which would provide equivalent coverage to the City.

The amount of each bond, or alternatively, the amount of insurance coverage, shall be set by the City Commission annually by resolution and the bond or insurance premiums shall be paid by the City.

In response to a comment by Member Patterson concerning Item 2 in the first paragraph, Mr. Fournier stated that Item 2 will be changed to: “authorize the purchase of insurance...”

Mr. Fournier stated that the Committee directed that a provision be included in the City Charter to require the adoption of an ordinance to establish a procedure for appointment of all permanent boards; that the provision does not apply to ad hoc or temporary committees or boards; that the following sentence has been added to Section 15(a):

Sec. 15(a). Establishment of Boards

The City Commission shall by ordinance establish a procedure for the appointment of all permanent board members and shall by ordinance further provide for any qualifications for appointment.

Chair Serrie stated that Member Battie called and has an excused absence due to personal reasons.

A motion was made by Member Snyder, seconded by Member Hoffman-Meketon, to accept the revisions proposed by the City Attorney, which carried by 9-0 vote.

6. **DISCUSSION RE: ARTICLE X. CHARTER AMENDMENTS (AGENDA ITEM VI)**
***SECTION 1 – PROPOSAL OF AMENDMENTS**
***SECTION 2 – REFERENDUM OF CHARTER AMENDMENTS**

City Attorney Fournier stated that two issues were raised in Section 1A(2), Article X, Charter Amendments, City Charter: 1) the end of the period for obtaining signatures and 2) the duration of the period which is currently 90 days; that the first issue has raised confusion as the petitioner submits the petition to the City Auditor and Clerk and does not know when the petition will be submitted to the Commission.

Sec. 1A(2), Proposal of Amendments

Mr. Fournier stated that the provision has been interpreted to mean the date the petition is submitted to the City Auditor and Clerk; that the recommendation is to change the date from the date submitted to the Commission to the date submitted to the City Auditor and Clerk, consistent with the current interpretation.

A motion was made by Member Hoffman-Meketon to retain the language in Section 1A(2) with two changes: 1) the 10 percent requirement be changed to 5 percent and 2) the 90-day period be changed to 120 days.

Mr. Fournier stated that the percentage is established by State law; that the percentage is different for the County; that Section 166.031, Florida Statutes, governs municipalities.

Member Hoffman-Meketon withdrew the motion.

A motion was made by Member Hoffman-Meketon, seconded by Member Lampl, to change the period from 90 days to 180 days.

Discussion ensued concerning the current 90-day period to obtain qualified elector signatures, the process of verifying signatures by the Supervisor of Elections, the empowerment of citizens, the expense of obtaining signatures, expiration dates of signatures, the need for an educational process regarding the subject matter of petitions, the amount of work required prior to initiating a petition, and revocation of signatures.

Chair Serrie called for a vote on the motion which carried by a 9-0 vote.

A motion was made by Member Patterson, seconded by Member Jaensch, to change the date from filing with the City Commission to filing with the City Auditor and Clerk, and carried by a 9-0 vote.

Chair Serrie stated that the Committee's consensus is for no changes to Sections 1B and 2, Article X, Charter Amendments, City Charter.

7. **DISCUSSION OF ITEMS FOR NEXT AGENDA (AGENDA ITEM VII)**

Chair Serrie stated that the items on the next Agendas will be Section 4, Form of Government, Article I, Sections 7, Mayor, vice mayor and acting mayor and 8, Functions of mayor, Article III and Sections 4, Conduct of Elections and 5, Elections, Article IX, City Charter; that hopefully, the meetings will be well attended as significant interest for these two items exists in the community.

Discussion ensued concerning the amount of time allocated to public speakers, the possibility of a special newspaper advertisement and a public service announcement, the hope members of the public will present proposals for the Committee's consideration.

City Auditor and Clerk Nadalini stated that additional avenues to inform the public will be explored.

8. **REMARKS OF COMMITTEE MEMBERS AND ADMINISTRATIVE OFFICERS (AGENDA ITEM IX)**

CHAIR SERRIE:

A. stated that a proposal was recently heard to discontinue televising the Commission meetings of the City of Venice, Florida; that televising Commission meetings is important.

9. **ADJOURN (AGENDA ITEM X)**

The meeting of the Charter Review Committee was adjourned at 8:15 p.m.

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF JANUARY 25, 2011, AND CONTINUED TO FEBRUARY 1, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Elmer Berkel, Arthur Levin, Virginia Hoffman-Meketon (arrived at 6:04 p.m.), Chris Jaensch (arrived at 6:06 p.m.), Jim Lampl, John Patterson (arrived at 6:02 p.m.), and Shannon Snyder, City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: Member Hank Battie, due to a recent surgery.

The meeting was called to order at 6 p.m.

Chair Serrie stated that the Committee received seven electronic mails from citizens; that the items on the Agenda are for discussion at the current and February 1, 2011, Charter Review Committee meeting; that the Agenda could be extended to the February 25, 2011, Charter Review Committee meeting if necessary.

1. **CITIZENS' INPUT CONCERNING CHARTER REVIEW TOPICS (AGENDA ITEM I)**

The following person spoke:

Diana Hamilton requesting the citizens' comments concerning the form of government and the composition and district boundaries made at a previous meeting be included in the public record of the current meeting.

Chair Serrie noted Committee consensus not to include in the public record of the current meeting the citizens' comments made at a previous meeting concerning the form of government and the composition and district boundaries.

2. **APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF JANUARY 11, 2011 (AGENDA ITEM II)**

Chair Serrie noted Committee consensus to approve the minutes of the Charter Review Committee 2010 meeting of January 11, 2011.

3. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – CITIZENS' INPUT (AGENDA ITEM III-1)**

The following people spoke:

Kate Lowman indicating a candidate is able to easily reach constituents with little expenditure when running for a district rather than at-large, District 1 has special issues which should not be ignored, Districts 1 and 3 need a Commissioner with real ties to the community, opposing switching the election date to November, and read into the record a quote regarding two kinds of power in democracy from the Voice Magazine of Carleton College.

Jesse Johnson indicating District 1 needs a Commissioner who understands the needs of the district, he knocked on doors of residences located in District 1 to encourage people to vote, District 1 has the highest rate of poverty due to the lack of jobs available, and the election date should remain the same.

Mary Mack indicating the single-member districts should not be changed, a lawsuit will be filed if the Districts are changed, opposing having five At-Large Commissioners and an elected or strong mayor, read excerpts from the Model of City Charters into the record, asking the reason an elected mayor is desired when the citizens have voted against an elected mayor in three different elections, and indicating changes to the Districts are not supported.

John Rivers indicating changing the districts is a concern, he is one of four people involved in the process to establish the single-member districts, the action taken was necessary in an attempt to obtain a favorable resolution, a problem has always arisen every time the minority community has attempted to get

justice or provide opportunities to low-income families, the issue of children who live in Laurel and the City of Venice travelling to attend Booker Elementary should not have taken a lawyer to address the issue, the African-American community would like the districts to remain the same since the matter was addressed in a Federal court, the African-American community do not wish to say Sarasota is the 13th highest discriminating body but will do so if necessary, any necessary action will be taken to ensure the districts remain the same so minorities can have a chance to become a Commissioner.

Walter Gilbert indicating he was president of the NAACP during the proceedings which led to the establishment of single-member districts, he ran for City Commission three times unsuccessfully, it was common knowledge he was not going to win the Commission race, a member of the Newtown will not have an opportunity to serve as a Commissioner if all districts become at-large, Sarasota would not have any African-American Commissioners without single-member districts, youths will lose the opportunity to contribute to the City if single-member districts are eliminated, any necessary action will be taken including going to Federal court if the districts are changed, the Committee will no longer consider the issue if it cares about the people and democratic process.

Linda Holland supporting an elected mayor since the issue has been discussed for the past 20 years, keeping the districts the same, and changing the election date to November and indicating changing the election date will help the City save money.

Trevor Harvey indicating the Committee should have already read the October 19, 2010 letter to the Charter Review Committee which was forwarded a second time via electronic mail, the Committee's considering changing the districts is dissatisfying, requesting the Committee to stop trying to change the districts, and indicating the NAACP is ready to file a lawsuit if necessary.

Ed James indicating politics which separated the African-Americans from the community existed when the lawsuit was filed in 1979, the current attempt to eliminate the single-member district demonstrates the same separation exists in 2011, the City ran publications when the lawsuit was filed which caused the price of defense to increase, every change in Sarasota such as the hiring of African-American firefighters and police officers as well as single-member districts have resulted from the filing of a lawsuit, the Federal government sent an investigator who supported the allegations of the minority community upon investigation, and the need for an elected mayor has not been proven.

Barbara Langston indicating African-Americans have District representation as a result of the 1985 Consent Order settling the lawsuit for voters' rights, for many years African-Americans were never elected as Commissioner due to the need to run at-large, African-Americans were elected to serve on the Commission only after the 1985 Consent Order, the last charter amendment for an elected mayor and seven Commissioners was very insulting to the minority community, Sarasota is changing and can no longer afford to ignore the rights of its minority community and less wealthy citizens, the proposal for an elected mayor or strong City Manager is an attempt to retain power in politics both of which she opposes, and another district should be created by eliminating one at-large Commissioner seat to ensure Gillespie Park and Park East Neighborhoods have representation on the Commission.

Susan Chapman indicating the idea of an elected mayor has been rejected three times by the citizens, the real issue is people do not like the people currently in leadership, supporting the City Manager-Commission form of government, she has found the voice of African-Americans is often totally disregarded which has resulted in many minority leaders expressing disagreement, the City is still one of the most segregated cities in the country, and the Committee will always hear Caucasians coming forward to request a change in district boundaries and elections dates, disregarding the voice of the African-American community is disrespectful, and opposing changing the date of the City election as City elections become obscured.

Diana Hamilton supporting an elected mayor, changing the election date to November, indicating the power of voting will not be diluted by changing the date of City elections, opposing the dissolution of the single-member districts, the use of divisive terms only helps to keep the community segregated.

Valerie Buchand opposing an elected mayor as the community has voted against a proposal for an elected mayor three times, indicating changing the districts is a racist matter, the Newtown community must fight extra hard to obtain things, the community has heard numerous testimonies regarding the

difficulty with an elected mayor, obtaining a representative for the Newtown community has been difficult although the representation has not been great, the proposal to change the districts is an attempt to disenfranchise District 1 of the opportunity to have a minority Commissioner, and many items which the current Committee is reviewing has already been placed to vote.

Irven Crummer indicating he is attempting to understand the reason a group of American people is so separated, the actions of people show the minority community is not equal, and asking the reason the Committee wishes to change a process which works fine.

Paul Caragiulo supporting moving the elections to November as the belief is more people will go to vote if the election date is changed.

Valerie Dorr supporting moving the City elections to November and keeping the districts the same as some issues are specific to the location a person lives.

Fredd Atkins indicating the proposal to have an elected mayor is a power issue, an elected or strong mayor is not supported, the Commission-City Manager form of government works the best for the citizens of any community, the current City Attorney argued the case to establish single-member districts for the City, the same people pushing for a strong mayor are the same people who attempt to deplete the process to take away the plurality vote, African-Americans are not the majority in District 1 although more minorities vote during City elections, he still believes having five single-member districts is the best process for the citizens.

Willie Shaw opposing an elected and strong mayor, supporting the Commission-City Manager form of government and single-member districts, indicating conversations in the City are very quiet as no one wants to discuss the real issue of race, the issue of race, ethnicity, and real conversations must be discussed, the authority given is lost if not exercised, the people who are paying to protect environmentally sensitive lands are the same people who allowed the contamination of the same environmentally sensitive lands by allowing entities to dump toxic waste on the Marion Anderson Brownfield site, and the same issue arises every two years.

Kafi Benz opposing an elected mayor, indicating the person leading the Commission should be called Chairman rather than Mayor, the current Commission-City Manager form of government is considered the best form of government for small cities across the United States, supporting keeping the districts the same, indicating the date of City elections should remain the same, the functions and powers of the mayor should be highly circumspect, and the City Manager must be thoroughly motivated, charged, and held accountable by the Commission.

Committee recessed at 7:20 p.m. and reconvened at 7:32 p.m.

Chair Serrie stated that the Committee was convened to review the entire City Charter; that the Committee tagged items which were worthy of discussion; that a recommendation will be presented to the Commission who will vote on the recommendation; that the comments made under citizens' input are appreciated.

4. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – BACKGROUND ON CURRENT ELECTION PROCESS (AGENDA ITEM III-2)**

City Attorney Fournier stated that the lawsuit was filed in the fall of 1979; that the election system in place at the time of the lawsuit was a five-member Commission; that the Commissioners served three-year terms with an At-Large capacity; that two Commissioners were up for election the first two years and a fifth Commissioner in the third year; that no elections from districts were held; that resident districts did not exist; that the basis of the lawsuit was the election system violated Section 2 of the Voting Rights Act of 1965; that the relief requested in the complaint was for the court to order the City to convert to five single-member districts; that he began working for the City Attorney in 1980; however, he was not assigned to work on the lawsuit until 1982 at which time the U.S. Congress made major amendments to Section 2 of the Voting Rights Act; that the amendments facilitated the process for the plaintiff to prove the burden of proof at which time had advised the City Attorney the plaintiffs would likely be successful in their claim; that he felt the City should attempt to take some action to avoid the conversion into five single-

member districts based on cases he was reading which were filed in other cities; that the elections from 1963 to 1982 had 10 African-American candidates with seven of the 10 candidates making the run-off election; that no African-American were elected to serve on the Commission in the 10 attempts; that the answer seemed to be a mixed-election system with some single-member district and at-large Commissioners; that he prepared and submitted a resolution to the Commission in early 1983 which was approved unanimously; that the resolution endorsed the principle that the local political process should be equally open to participation by all citizens; that the City advised the court its willingness to replace the election system with a system in which the Commissioners were elected in whole or in part by single-member districts in an attempt to preserve the ability to have a 3-2 mixed system; that the Court granted the City permission to hold a referendum; that the referendum was held in the fall of 1983 with the choice of a 3-2 mixed system or five single-member districts; that the 3-2 mixed system was approved by 59 percent of the voters; that a case was filed in 1984 in an attempt to require a five single-member district system in which the City had to prove the new system adhered to the Voting Rights Act; that the Federal court ruled in 1985 that the 3-2 mixed system did adhere to the Voting Rights Act; that the court required all current Commissioners be placed for re-election at the same time; that a special election was held in the spring of 1985; that one feature of the election system which is different the Commissioners were elected by plurality vote and not majority vote; that the voting system was changed in the mid 1990s; that he prepared a memorandum in 1993 as he was requested to provide an opinion as to whether the voting system could be changed; that he also drafted a memorandum in 2009 when an elected mayor was proposed for the third time; that his personal opinion is the current system is not broken and does not need to be fixed; that the hope is the Committee will not recommend a change to the current form of government.

5. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – ARTICLE I. ESTABLISHMENT OF MUNICIPALITY, SECTION 4 - FORM OF GOVERNMENT (METHOD OF ELECTING MAYOR AND CITY COMMISSIONERS) (AGENDA ITEM III-3)**

Member Jaensch stated that the item was tagged in the event someone supported a discussion regarding changing the current form of government; therefore, a discussion is not necessary as no support was indicated by the public.

Chair Serrie noted Committee consensus not to change the current form of government.

6. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – ARTICLE III. CITY COMMISSION (AGENDA ITEM III-4)**

**SECTION 1 - COMPOSITION AND DISTRICT BOUNDARIES;
ELIGIBILITY, ELECTION AND TERM OF MEMBERS**

AND

SECTION 7 - MAYOR, VICE MAYOR AND ACTING MAYOR

AND

SECTION 8 - FUNCTIONS AND POWERS OF MAYOR

Member Patterson stated that he has listened to the comments made by the citizens; that current composition and district boundaries work appropriately; that a change in District boundaries would be disruptive; that a reason to change the District boundaries is not seen.

A discussion ensued concerning improving the method in which the City works.

Member Hoffman-Meketon stated that Sarasota County Supervisor of Elections Kathy Dent will be redrawing the lines of all the precincts in the County in the future; that a provision should be included in the recommendation to the Commission to require a Charter Review Committee to convene to discuss impact as a result of the redrawing of precincts once completed; that Ms. Dent indicated many precincts will be consolidated.

City Attorney Fournier stated that the redrawing of the lines for precincts is believed applicable only to the location of the district boundaries; that Ms. Dent indicated the City would like three districts composed of aggregates of entire precincts; that the precinct boundaries may change following the 2012 census; however, he does not believe the proposed change relates to the mixed 3-2 system but rather to the location the district boundary lines are drawn.

Member Hoffman-Meketon stated that the subject should remain open; that the fair district issue is now more likely to go to Supreme Court which can impact the City; that some City districts reduced the number of precincts by half which can result in a grievous affect on certain minorities and economic demographics; that a Charter Review Committee should be convened to discuss the matter once the 2010 census is completed and the precinct lines have been redrawn.

Member Patterson stated that the City has the power to change the District boundaries; that the Supervisor of Elections only has the power to change the boundaries of precincts.

Member Jaensch stated that he would like to consider four or five single-member districts as well as the possibility of converting the two at-large seats to seats for the Mayor and Vice Mayor.

Member Levin stated that City districts would be more tailored to Congressional Districts if the elections are moved to November; that keeping the City elections in March would keep the districts closer to the mandate in the City Charter; that an important point was raised under citizens' input in which the potential of cycling through the Commissioners gives minority Commissioners an opportunity to serve as mayor; that the original principle of ensuring all communities are represented would be undermined if a mayor must run at-large during a City election.

A discussion ensued concerning the placing of minimum qualifications for the Mayor and Vice Mayor.

Member Berkel stated that he would like to see the at-large seats be identified as At-Large Seat No. 1 and 2; that a candidate would be required to declare if they are running for At-Large Seat No. 1 or 2; that currently the candidates running to serve as an At-Large Commissioner who receive the most votes are seated.

A motion was made by Member Hoffman-Meketon and seconded by Member Lampl to recommend the Commission discuss the possibility of creating five single-member districts for the City of Sarasota.

A discussion ensued concerning the impacts to the City by converting to five single-member districts, the exclusion of a discussion to consider an elected mayor by creating five single-member districts, and the possibility of changing the terms of Commission seats.

Chair Serrie called for a vote on the motion which failed by a 3-6 vote with Chair Serrie and Members Berkel, Jaensch, Levin, Patterson, and Snyder voting no.

A motion was made by Member Patterson, seconded by Member Snyder, which carried by an 8-1 vote with Member Hoffman-Meketon voting no to retain the three Single-Member Districts and two At-Large Commissioners without precluding a discussion regarding the possible division of the At-Large seats into At-Large Seat Nos. 1 and 2.

A motion was made by Member Berkel and seconded by Member Hoffman-Meketon, to change the titles from Mayor, Vice Mayor, and Acting Mayor to Chair, Vice Chair, and Acting Chair.

A discussion ensued concerning precluding the possibility to consider a leadership mayor, the people's understanding of the role of a mayor, and the advantages and disadvantage of the term "Chair."

Chair Serrie called for a vote on the motion which failed by a 4-5 vote with Vice Chair Chepote and Members Jaensch, Levin, Patterson, and Snyder voting no.

Chair Serrie noted Committee consensus to continue discussion of Sections 7 and 8, Article III, City Commission, and Section 5, Article IX, Nominations, Elections, and Referenda, City of Sarasota Charter (1996), to the February 1, 2011, Charter Review Committee meeting at 6 p.m.

8. **DISCUSSION OF ITEMS FOR NEXT AGENDA (AGENDA ITEM IV)**

Chair Serrie stated that the items on the current Agenda will be the same for the February 1, 2011, Charter Review Committee meeting.

9. **OTHER MATTERS (AGENDA ITEM V)**

Member Hoffman-Meketon stated that she is having difficulty sending electronic mails using her City account.

City Auditor and Clerk Nadalini requested that Member Hoffman-Meketon call the Office of the City Auditor and Clerk January 26, 2011, to attempt to resolve the issue.

10. **REMARKS OF COMMITTEE MEMBERS AND ADMINISTRATIVE OFFICERS (AGENDA ITEM VI)**

Member Lampl stated that the citizens who attended the Charter Review Committee meeting to speak are appreciated; that citizens are encouraged to attend the February 1, 2011, Charter Review Committee meeting to provide further comments.

Chair Serrie stated that the next Charter Review Committee meeting is scheduled for February 1, 2011, at 6 p.m.

11. **ADJOURN (AGENDA ITEM VII)**

The meeting of the Charter Review Committee recessed at 8:47 p.m.

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF FEBRUARY 1, 2011, AND CONTINUED FROM JANUARY 25, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Hank Battie, Elmer Berkel, Arthur Levin, Virginia Hoffman-Meketon, Chris Jaensch, Jim Lampl, John Patterson, and Shannon Snyder, City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: None

The meeting was called to order at 6 p.m.

1. **CITIZENS' INPUT CONCERNING CHARTER REVIEW TOPICS (AGENDA ITEM I)**

No one signed up to speak.

2. **APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF JANUARY 11, 2011 (AGENDA ITEM II)**

Chair Serrie noted Committee consensus to approve the minutes of the Charter Review Committee 2010 meeting of January 11, 2011.

3. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – CITIZENS' INPUT (AGENDA ITEM III-1)**

The following people spoke:

Kate Lowman indicating a candidate is able to easily reach constituents with little expenditure when running for a district rather than at-large, District 1 has special issues which should not be ignored, Districts 1 and 3 need a Commissioner with real ties to the community, opposing switching the election date to November, and read into the record a quote regarding two kinds of power in democracy from the Voice Magazine of Carleton College.

Jesse Johnson indicating District 1 needs a Commissioner who understands the needs of the district, he knocked on doors of residences located in District 1 to encourage people to vote, District 1 has the highest rate of poverty due to the lack of jobs available, and the election date should remain the same.

Mary Mack indicating the single-member districts should not be changed, a lawsuit will be filed if the Districts are changed, opposing having five At-Large Commissioners and an elected or strong mayor, read excerpts from the Model of City Charters into the record, asking the reason an elected mayor is desired when the citizens have voted against an elected mayor in three different elections, and indicating changes to the Districts are not supported.

John Rivers indicating changing the districts is a concern, he is one of four people involved in the process to establish the single-member districts, the action taken was necessary in an attempt to obtain a favorable resolution, a problem has always arisen every time the minority community has attempted to get justice or provide opportunities to low-income families, the issue of children who live in Laurel and the City of Venice travelling to attend Booker Elementary should not have taken a lawyer to address the issue, the African-American community would like the districts to remain the same since the matter was addressed in a Federal court, the African-American community do not wish to say Sarasota is the 13th highest discriminating body but will do so if necessary, any necessary action will be taken to ensure the districts remain the same so minorities can have a chance to become a Commissioner.

Walter Gilbert indicating he was president of the NAACP during the proceedings which led to the establishment of single-member districts, he ran for City Commission three times unsuccessfully, it was common knowledge he was not going to win the Commission race, a member of the Newtown will not have an opportunity to serve as a Commissioner if all districts become at-large, Sarasota would not have any African-American Commissioners without single-member districts, youths will lose the opportunity to contribute to the City if single-member districts are eliminated, any necessary action will be taken

including going to Federal court if the districts are changed, the Committee will no longer consider the issue if it cares about the people and democratic process.

Linda Holland supporting an elected mayor since the issue has been discussed for the past 20 years, keeping the districts the same, and changing the election date to November and indicating changing the election date will help the City save money.

Trevor Harvey indicating the Committee should have already read the October 19, 2010 letter to the Charter Review Committee which was forwarded a second time via electronic mail, the Committee's considering changing the districts is dissatisfying, requesting the Committee to stop trying to change the districts, and indicating the NAACP is ready to file a lawsuit if necessary.

Ed James indicating politics which separated the African-Americans from the community existed when the lawsuit was filed in 1979, the current attempt to eliminate the single-member district demonstrates the same separation exists in 2011, the City ran publications when the lawsuit was filed which caused the price of defense to increase, every change in Sarasota such as the hiring of African-American firefighters and police officers as well as single-member districts have resulted from the filing of a lawsuit, the Federal government sent an investigator who supported the allegations of the minority community upon investigation, and the need for an elected mayor has not been proven.

Barbara Langston indicating African-Americans have District representation as a result of the 1985 Consent Order settling the lawsuit for voters' rights, for many years African-Americans were never elected as Commissioner due to the need to run at-large, African-Americans were elected to serve on the Commission only after the 1985 Consent Order, the last charter amendment for an elected mayor and seven Commissioners was very insulting to the minority community, Sarasota is changing and can no longer afford to ignore the rights of its minority community and less wealthy citizens, the proposal for an elected mayor or strong City Manager is an attempt to retain power in politics both of which she opposes, and another district should be created by eliminating one at-large Commissioner seat to ensure Gillespie Park and Park East Neighborhoods have representation on the Commission.

Susan Chapman indicating the idea of an elected mayor has been rejected three times by the citizens, the real issue is people do not like the people currently in leadership, supporting the City Manager-Commission form of government, she has found the voice of African-Americans is often totally disregarded which has resulted in many minority leaders expressing disagreement, the City is still one of the most segregated cities in the country, and the Committee will always hear Caucasians coming forward to request a change in district boundaries and elections dates, disregarding the voice of the African-American community is disrespectful, and opposing changing the date of the City election as City elections become obscured.

Diana Hamilton supporting an elected mayor, changing the election date to November, indicating the power of voting will not be diluted by changing the date of City elections, opposing the dissolution of the single-member districts, the use of divisive terms only helps to keep the community segregated.

Valerie Buchand opposing an elected mayor as the community has voted against a proposal for an elected mayor three times, indicating changing the districts is a racist matter, the Newtown community must fight extra hard to obtain things, the community has heard numerous testimonies regarding the difficulty with an elected mayor, obtaining a representative for the Newtown community has been difficult although the representation has not been great, the proposal to change the districts is an attempt to disenfranchise District 1 of the opportunity to have a minority Commissioner, and many items which the current Committee is reviewing has already been placed to vote.

Irven Crummer indicating he is attempting to understand the reason a group of American people is so separated, the actions of people show the minority community is not equal, and asking the reason the Committee wishes to change a process which works fine.

Paul Caragiulo supporting moving the elections to November as the belief is more people will go to vote if the election date is changed.

Valerie Dorr supporting moving the City elections to November and keeping the districts the same as some issues are specific to the location a person lives.

Fredd Atkins indicating the proposal to have an elected mayor is a power issue, an elected or strong mayor is not supported, the Commission-City Manager form of government works the best for the citizens of any community, the current City Attorney argued the case to establish single-member districts for the City, the same people pushing for a strong mayor are the same people who attempt to deplete the process to take away the plurality vote, African-Americans are not the majority in District 1 although more minorities vote during City elections, he still believes having five single-member districts is the best process for the citizens.

Willie Shaw opposing an elected and strong mayor, supporting the Commission-City Manager form of government and single-member districts, indicating conversations in the City are very quiet as no one wants to discuss the real issue of race, the issue of race, ethnicity, and real conversations must be discussed, the authority given is lost if not exercised, the people who are paying to protect environmentally sensitive lands are the same people who allowed the contamination of the same environmentally sensitive lands by allowing entities to dump toxic waste on the Marion Anderson Brownfield site, and the same issue arises every two years.

Kafi Benz opposing an elected mayor, indicating the person leading the Commission should be called Chairman rather than Mayor, the current Commission-City Manager form of government is considered the best form of government for small cities across the United States, supporting keeping the districts the same, indicating the date of City elections should remain the same, the functions and powers of the mayor should be highly circumspect, and the City Manager must be thoroughly motivated, charged, and held accountable by the Commission.

Committee recessed at 7:20 p.m. and reconvened at 7:32 p.m.

Chair Serrie stated that the Committee was convened to review the entire City Charter; that the Committee tagged items which were worthy of discussion; that a recommendation will be presented to the Commission who will vote on the recommendation; that the comments made under citizens' input are appreciated.

4. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – BACKGROUND ON CURRENT ELECTION PROCESS (AGENDA ITEM III-2)**

City Attorney Fournier stated that the lawsuit was filed in the fall of 1979; that the election system in place at the time of the lawsuit was a five-member Commission; that the Commissioners served three-year terms with an At-Large capacity; that two Commissioners were up for election the first two years and a fifth Commissioner in the third year; that no elections from districts were held; that resident districts did not exist; that the basis of the lawsuit was the election system violated Section 2 of the Voting Rights Act of 1965; that the relief requested in the complaint was for the court to order the City to convert to five single-member districts; that he began working for the City Attorney in 1980; however, he was not assigned to work on the lawsuit until 1982 at which time the U.S. Congress made major amendments to Section 2 of the Voting Rights Act; that the amendments facilitated the process for the plaintiff to prove the burden of proof at which time had advised the City Attorney the plaintiffs would likely be successful in their claim; that he felt the City should attempt to take some action to avoid the conversion into five single-member districts based on cases he was reading which were filed in other cities; that the elections from 1963 to 1982 had 10 African-American candidates with seven of the 10 candidates making the run-off election; that no African-American were elected to serve on the Commission in the 10 attempts; that the answer seemed to be a mixed-election system with some single-member district and at-large Commissioners; that he prepared and submitted a resolution to the Commission in early 1983 which was approved unanimously; that the resolution endorsed the principle that the local political process should be equally open to participation by all citizens; that the City advised the court its willingness to replace the election system with a system in which the Commissioners were elected in whole or in part by single-member districts in an attempt to preserve the ability to have a 3-2 mixed system; that the Court granted the City permission to hold a referendum; that the referendum was held in the fall of 1983 with the choice of a 3-2 mixed system or five single-member districts; that the 3-2 mixed system was approved by 59 percent of the voters; that a case was filed in 1984 in an attempt to require a five single-member district

system in which the City had to prove the new system adhered to the Voting Rights Act; that the Federal court ruled in 1985 that the 3-2 mixed system did adhere to the Voting Rights Act; that the court required all current Commissioners be placed for re-election at the same time; that a special election was held in the spring of 1985; that one feature of the election system which is different the Commissioners were elected by plurality vote and not majority vote; that the voting system was changed in the mid 1990s; that he prepared a memorandum in 1993 as he was requested to provide an opinion as to whether the voting system could be changed; that he also drafted a memorandum in 2009 when an elected mayor was proposed for the third time; that his personal opinion is the current system is not broken and does not need to be fixed; that the hope is the Committee will not recommend a change to the current form of government.

5. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – ARTICLE I. ESTABLISHMENT OF MUNICIPALITY, SECTION 4 - FORM OF GOVERNMENT (METHOD OF ELECTING MAYOR AND CITY COMMISSIONERS) (AGENDA ITEM III-3)**

Member Jaensch stated that the item was tagged in the event someone supported a discussion regarding changing the current form of government; therefore, a discussion is not necessary as no support was indicated by the public.

Chair Serrie noted Committee consensus not to change the current form of government.

6. **DISCUSSION RE: CITY OF SARASOTA CHARTER AND RELATED LAWS – ARTICLE III. CITY COMMISSION (AGENDA ITEM III-4)**

**SECTION 1 - COMPOSITION AND DISTRICT BOUNDARIES;
ELIGIBILITY, ELECTION AND TERM OF MEMBERS**

AND

SECTION 7 - MAYOR, VICE MAYOR AND ACTING MAYOR

AND

SECTION 8 - FUNCTIONS AND POWERS OF MAYOR

Member Patterson stated that he has listened to the comments made by the citizens; that current composition and district boundaries work appropriately; that a change in District boundaries would be disruptive; that a reason to change the District boundaries is not seen.

A discussion ensued concerning improving the method in which the City works.

Member Hoffman-Meketon stated that Sarasota County Supervisor of Elections Kathy Dent will be redrawing the lines of all the precincts in the County in the future; that a provision should be included in the recommendation to the Commission to require a Charter Review Committee to convene to discuss impact as a result of the redrawing of precincts once completed; that Ms. Dent indicated many precincts will be consolidated.

City Attorney Fournier stated that the redrawing of the lines for precincts is believed applicable only to the location of the district boundaries; that Ms. Dent indicated the City would like three districts composed of aggregates of entire precincts; that the precinct boundaries may change following the 2012 census; however, he does not believe the proposed change relates to the mixed 3-2 system but rather to the location the district boundary lines are drawn.

Member Hoffman-Meketon stated that the subject should remain open; that the fair district issue is now more likely to go to Supreme Court which can impact the City; that some City districts reduced the number of precincts by half which can result in a grievous affect on certain minorities and economic demographics; that a Charter Review Committee should be convened to discuss the matter once the 2010 census is completed and the precinct lines have been redrawn.

Member Patterson stated that the City has the power to change the District boundaries; that the Supervisor of Elections only has the power to change the boundaries of precincts.

Member Jaensch stated that he would like to consider four or five single-member districts as well as the possibility of converting the two at-large seats to seats for the Mayor and Vice Mayor.

Member Levin stated that City districts would be more tailored to Congressional Districts if the elections are moved to November; that keeping the City elections in March would keep the districts closer to the mandate in the City Charter; that an important point was raised under citizens' input in which the potential of cycling through the Commissioners gives minority Commissioners an opportunity to serve as mayor; that the original principle of ensuring all communities are represented would be undermined if a mayor must run at-large during a City election.

A discussion ensued concerning the placing of minimum qualifications for the Mayor and Vice Mayor.

Member Berkel stated that he would like to see the at-large seats be identified as At-Large Seat No. 1 and 2; that a candidate would be required to declare if they are running for At-Large Seat No. 1 or 2; that currently the candidates running to serve as an At-Large Commissioner who receive the most votes are seated.

A motion was made by Member Hoffman-Meketon and seconded by Member Lampl to recommend the Commission discuss the possibility of creating five single-member districts for the City of Sarasota.

A discussion ensued concerning the impacts to the City by converting to five single-member districts, the exclusion of a discussion to consider an elected mayor by creating five single-member districts, and the possibility of changing the terms of Commission seats.

Chair Serrie called for a vote on the motion which failed by a 3-6 vote with Chair Serrie and Members Berkel, Jaensch, Levin, Patterson, and Snyder voting no.

A motion was made by Member Patterson, seconded by Member Snyder, which carried by an 8-1 vote with Member Hoffman-Meketon voting no to retain the three Single-Member Districts and two At-Large Commissioners without precluding a discussion regarding the possible division of the At-Large seats into At-Large Seat Nos. 1 and 2.

A motion was made by Member Berkel and seconded by Member Hoffman-Meketon, to change the titles from Mayor, Vice Mayor, and Acting Mayor to Chair, Vice Chair, and Acting Chair.

A discussion ensued concerning precluding the possibility to consider a leadership mayor, the people's understanding of the role of a mayor, and the advantages and disadvantage of the term "Chair."

Chair Serrie called for a vote on the motion which failed by a 4-5 vote with Vice Chair Chepote and Members Jaensch, Levin, Patterson, and Snyder voting no.

Chair Serrie noted Committee consensus to continue discussion of Sections 7 and 8, Article III, City Commission, and Section 5, Article IX, Nominations, Elections, and Referenda, City of Sarasota Charter (1996), to the February 1, 2011, Charter Review Committee meeting at 6 p.m.

8. **DISCUSSION OF ITEMS FOR NEXT AGENDA (AGENDA ITEM IV)**

Chair Serrie stated that the items on the current Agenda will be the same for the February 1, 2011, Charter Review Committee meeting.

9. **OTHER MATTERS (AGENDA ITEM V)**

Member Hoffman-Meketon stated that she is having difficulty sending electronic mails using her City account.

City Auditor and Clerk Nadalini requested that Member Hoffman-Meketon call the Office of the City Auditor and Clerk January 26, 2011, to attempt to resolve the issue.

10. **REMARKS OF COMMITTEE MEMBERS AND ADMINISTRATIVE OFFICERS (AGENDA ITEM VI)**

Member Lampl stated that the citizens who attended the Charter Review Committee meeting to speak are appreciated; that citizens are encouraged to attend the February 1, 2011, Charter Review Committee meeting to provide further comments.

Chair Serrie stated that the next Charter Review Committee meeting is scheduled for February 1, 2011, at 6 p.m.

11. **ADJOURN (AGENDA ITEM VII)**

The meeting of the Charter Review Committee recessed at 8:47 p.m.

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF FEBRUARY 15, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Hank Battie, Elmer Berkel, Arthur Levin, Chris Jaensch, Jim Lampl, and John Patterson, and City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: Members Virginia Hoffman-Meketon and Shannon Snyder

The meeting was called to order at 6:00 p.m.

Chair Serrie stated that a three-minute timelimit is recommended for public speakers as speakers can address each item on the Agenda individually and noted Committee consensus for a three-minute timelimit for public speakers.

1. CITIZENS' INPUT CONCERNING CHARTER REVIEW TOPICS (AGENDA ITEM I)

No one signed up to speak.

2. APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF FEBRUARY 1, 2011 (AGENDA ITEM II)

A motion was made by Member Battie, seconded by Member Levin, to approve the minutes of the February 1, 2011, Charter Review Committee 2010 meeting, and carried by an 8-0 vote.

3. RESCISSION RE: REQUEST BY MEMBER JAENSCH TO RESCIND A MOTION MADE ON JANUARY 25, 2011 BY MEMBER BERKEL AND SECONDED BY MEMBER HOFFMAN-MEKETON, WHICH FAILED BY A 4-5 VOTE TO CHANGE THE TITLES FROM MAYOR, VICE MAYOR, AND ACTING MAYOR TO CHAIR, VICE CHAIR, AND ACTING CHAIR (AGENDA ITEM III)

Chair Serried referred to letters from Del Borgsdorf, Executive Vice President, the Greater Sarasota Chamber of Commerce supporting the retention of the title of Mayor and from Member Hoffman-Meketon supporting a change in the title from Mayor to Chair.

The following people spoke:

Mollie Cardamone indicating some confusion regarding the title of Chief Executive Officer, and presented and read a petition dated February 15, 2011, and signed by previous Mayors opposing a change in the title from Mayor to Chair and supporting the Commission/City Manager form of government.

Kerry Kirschner indicating the titles of Mayor and Vice Mayor are well established in the country, the importance of the City's representation on the U.S. Conference of Mayors.

Lou Ann Palmer indicating the importance of the title of Mayor and Vice Mayor, opposing a change in the title of Mayor to Chair and the title of City Manager to Chief Executive Officer, supporting the Commission/City Manager form of government, and opposing having the City Manager rather than the Mayor give the State of the City Address.

Mollie Cardamone indicating the petition previously presented accurately reflects the views of the signatories, which includes all but two of the former Mayors.

In response to a request from Member Patterson to ask questions of the speakers, Chair Serrie noted Committee consensus to allow questions from Committee Members.

In response to a question from Member Patterson asking the reason for the opposition to having the City Manager give the State of the City Address, Mollie Cardamone stated that the State of the City Address is made at a formal Commission meeting and is mandated by the City Charter as a tribute to the City's accomplishments during the past year, Kerry Kirschner stated that the City Commission determines the

priorities, and Lou Ann Palmer stated that the accomplishments are presented based on the Commission's top priorities.

In response to a question from Member Patterson asking the reason the pension issue was not addressed previously, Kerry Kirschner stated that the pension issue only recently became a concern.

Kafi Benz indicating the title of City Manager is acceptable, the Commission/City Manager form of government is supported, and encouraging the Committee to recommend the title of Chair to the Commission.

Susan Chapman indicating rescission votes should not be allowed, the Committee should move forward, and the title of City Manager is supported.

Member Jaensch stated that his first choice was for a leadership Mayor, which was not supported by any public speakers; therefore, a rescission of the failed motion made at the February 1, 2011, Committee meeting to change the title from Mayor to Chair is proposed.

Discussion ensued concerning the power of the Mayor, the chairing of Commission meetings, the position of Mayor as a focus for the City and as a symbol, the minimization of the position with the title Chair, representation on the U.S. Conference of Mayors by either the Mayor or Chief Elected Official, the appropriateness of the title of Chair for conducting the City's business, the content of the past State of the City Addresses, retaining the concept of Mayor, the need for compelling additional information to support a rescission, the desire for consensus recommendations from the Committee, the tradition and expectation of the title Mayor, the structure of government compared to a corporate structure, and the potential imbalance created by changing the title of City Manager to Chief Executive Officer.

Member Serrie read into the record a February 15, 2011, letter from Member Hoffman-Meketon supporting the title of Chair rather than Mayor.

Discussion ensued concerning the Commission as the City's policy-making entity, the opportunity by the Commission to select the leader for the year, potential problems associated with an automatic rotation of the role, the reason for a change in the title, the possible confusion created by the title of Mayor, clarification of the role of the position by a change in the title, the use of the title of Mayor by cities and Chair by counties.

The following person signed up to speak:

Chair Serrie noted Committee consensus for the individual to speak.

Mary Servian indicating the majority of Mayors in Florida are not strong mayors, the power of the Mayor rests in the power of the gavel to help obtain consensus among the Commissioners, the title of Mayor has a special connotation, the selection of Mayor is to choose a Commissioner who will represent the Commission, the City, and the citizens, the State of the City Address as an opportunity to reflect back, and the citizens' view of the Mayor as the leadership person.

A motion was made by Member Jaensch, seconded by Member Berkel to rescind the January 25, 2011, failed motion to change the title from Mayor to Chair, and failed by a 4-5 vote with Chair Serrie, Vice Chair Chepote, and Members Battie, Levin, and Patterson voting no.

4. **DISCUSSION RE: ARTICLE III. CITY COMMISSION – SECTION 3 – COMPENSATION (AGENDA ITEM IV-1)**

The following person spoke:

Lou Ann Palmer indicating the position of Commissioner has changed drastically in recent years, the concern is eliminating working people from considering to stand for Commission election, and the timing for proposing a change in compensation is difficult.

Discussion ensued concerning the history of the compensation for the Mayor, Vice Mayor and Commissioners, service on the Commission as a public service, the possibility of adjusting the Commission's compensation by a supermajority Commission vote, the expense of elections, and the pool of candidates for election as Commissioner.

Member Patterson referred to the following sentence in Section 3, Compensation, Article III, City Charter:

Annual compensation shall be the salary authorized by Florida Statutes, Chapter 145.031, for the population group III multiplied by 66.7 percent.

A motion was made by Member Patterson to revise the sentence to provide the annual compensation shall not be in excess of the population group III of Section 145.031, Florida Statutes, but may not be increased beyond 66.7 percent except by the affirmative vote of a majority of the Commission.

An amendment to the motion was made by Member Berkel to change the vote from a majority to supermajority vote of the Commission.

Member Patterson, as the maker of the motion, accepted the amendment.

Member Lampl seconded the motion.

In response to a comment by Member Levin that the vote to increase compensation should be held prior to an election, City Attorney Fournier stated that a period of time in which an ordinance could be adopted could be designated.

Following discussion, Chair Serrie restated and called for a vote on the motion as amended to provide the annual compensation shall not be in excess of the population group III of Section 145.031, Florida Statutes, but may not be increased beyond 66.7 percent except by the affirmative vote of a supermajority of the Commission, which passed by an 8-0 vote.

A motion was made by Member Patterson, seconded by Member Levin, to clarify the amount is salary rather than compensation, and carried by an 8-0 vote.

City Attorney Fournier stated that appropriate language for a revision to the City Code will be developed and brought back.

In response to a comment by Member Levin concerning Commissioner benefits, City Manager Bartolotta stated that benefits can be presented in the annual budget.

The Committee recessed at 7:50 p.m. and reconvened at 8:00 p.m.

5. **DISCUSSION RE: CITY OF SARASOTA CHARTER OFFICIALS: ARTICLE IV. POWERS AND DUTIES OF CITY COMMISSION (AGENDA ITEM V-1)**

**SECTION 7 – APPOINTMENT OF ACTING CITY MANAGER,
ACTING CITY AUDITOR AND CLERK, AND ACTING CITY ATTORNEY**

A motion was made by Member Levin, seconded by Member Patterson to eliminate the phrase “hired as a permanent employee” in the following sentence of Section 7, Appointment of Acting City Manager, Acting City Auditor and Clerk, and Acting City Attorney, City Code, and carried by an 8-0 vote:

The city commission may appoint an acting city manager, an acting city auditor and clerk, and an acting city attorney to exercise temporarily the powers and perform the duties of the city manager, the city auditor and clerk, and a city attorney hired as a permanent employee in the event of death, incapacity, suspension, resignation, termination, or any other long-term absence.

6. **DISCUSSION RE: CITY OF SARASOTA CHARTER OFFICIALS: ARTICLE V. CITY MANAGER (AGENDA ITEM V-2)**

SECTION 3 - APPOINTMENT OF DEPUTIES

AND

SECTION 4 – APPOINTMENT OF DEPARTMENT HEADS

Chair Serrie noted Committee consensus the provisions of Sections 3 and 4, Article V, City Charter have been sufficiently addressed previously.

7. **DISCUSSION RE: CITY OF SARASOTA CHARTER OFFICIALS: ARTICLE VI. CITY AUDITOR AND CLERK (AGENDA ITEM V-3)**

SECTION 3 – APPOINTMENT OF DEPUTIES

AND

SECTION 4 – APPOINTMENT OF DEPARTMENT HEADS

AND

SECTION 5 – POWERS AND DUTIES

AND

SECTION 6 – AUDIT OF ACCOUNTS

City Auditor and Clerk Nadalini referred to a September 14, 2010, letter to the Committee included in the Agenda backup material indicating recommended changes as highlighted; stated that the changes proposed are minor, are intended to reflect current job duties and responsibilities, and are for clarification; and reviewed the proposed changes.

A motion was made by Member Levin, seconded by Member Lampl, to include a responsibility for the process of public access.

City Attorney Fournier stated that a responsibility can be added as to the ultimate responsibility for assuring access to public records; however, the process is determined by State Law and Case Law.

Member Levin, as the maker of the motion, with the approval of Member Lampl, as the seconder, stated that the clarification suggested by the City Attorney is accepted in the motion.

City Auditor and Clerk Nadalini stated that language will be returned to the Committee.

City Attorney Fournier stated that the language will be similar to: Be responsible for the proper administration of all affairs concerning the records of the City, including public access to such records.

Following discussion, Chair Serrie called for a vote on the motion with language concerning public records as will be presented by the City Attorney, which carried by an 8-0 vote.

City Manager Bartolotta stated that including language in the City Charter does not allow for the Commission to make changes as situations evolve; that some of the proposed language in Section 6, Audit of Accounts, Article VI, City Charter is a concern; that the proposed language appears to give the City Auditor and Clerk responsibility for effectiveness and efficiency of operations, reliability of financial and operating information, and compliance with laws and regulations; that these responsibilities are duties of the City Manager; that departments of the City Manager work with the auditors; that the language can create obstacles; that the arbitrator is the City Commission.

City Auditor and Clerk Nadalini stated that for the audit function to remain independent is important; that the proposed language does not minimize the duties and responsibilities of the City Manager; that the internal audit function must work with operating departments to assure the efficiency and effectiveness of controls; that the language of the role and responsibility of the internal auditor should be clear so the goals can be accomplished in an unobstructed manner.

Member Patterson stated that the proposed language appears as a power shift; that the City Manager should evaluate efficiency of operations; that the role of the audit function is unclear; that the proposed language seems to broaden the responsibility of the City Auditor and Clerk.

Member Levin stated that the phrase “for the purpose of recommendations” could be added.

Member Patterson stated that the hope is the Charter Officials can work out the language and return.

City Auditor and Clerk Nadalini stated that the City Manager’s concerns are being heard for the first time; that the intent was not for the City Auditor and Clerk to take a power position but rather preserve the independence of the audit function.

In response to a request from City Manager Bartolotta to clarify the scope of the requested review, Member Patterson stated that Section 6, Audit of Accounts, Article VI, City Code, should be reviewed.

Chair Serrie noted Committee consensus for the Charter Officials to return with proposed language for Section 6, Audit of Accounts, Article VI, City Code.

Member Lampl stated that most of the proposed changes are acceptable; however, proposed Section 5(h), concerning the City’s pension plans, Article VI, City Charter, is a concern; that most pension plans are administered through the Human Resources Department; that hearing arguments concerning possibly deleting the section would be appreciated.

City Manager Bartolotta stated that the function should be in the organization as determined by the Commission.

City Auditor and Clerk Nadalini stated that the decision is up to the Committee; that the Boards of Trustees have been pleased with the administration of the pension plans by the Office of the City Auditor and Clerk.

Discussion ensued concerning the length of time the pension plans have been administered by the Office of the City Auditor and Clerk, the reason for any change, and the flexibility of the City Commission for changes.

A motion was made by Member Levin, seconded by Member Berkel, to add the phrase “at the pleasure of the Commission” at the beginning of proposed Section 5(h), Article VI, City Charter.

In response to a comment by Member Lampl concerning the proposed language, City Attorney Fournier stated that the language could be more explicit.

Discussion ensued concerning the use of the term “pension plans” and “retirement plans,” the bifurcation of administration benefit plans, the management of the investments of the pension funds, the service of the City Auditor and Clerk as a trustee of the pension plans, and the auditing of the pension plans by independent outside auditors.

Chair Serrie called for a vote on the motion to add the phrase “at the pleasure of the Commission” at the beginning of proposed Section 5(h), Article VI, City Charter or other language recommended by the City Commission, which failed by a 4-4 tie vote, with Chair Serrie and Members Battie, Patterson, and Jaensch voting no.

A motion was made by Member Patterson and seconded by Member Levin to approve the changes recommended by the City Auditor and Clerk to Sections 3, Appointment of Deputies, 4, Appointment of Department Heads, and 5, Powers and Duties, Article VI, City Charter.

Discussion ensued concerning including the communications function as recommended in proposed Section 5(s), Article VI, City Charter, in the City Charter, responsibilities of the City Auditor and Clerk, Section 5(p), Article VI, City Charter, proposed Section 5(r), Article VI, City Charter, and the function of the City Auditor and Clerk as liaison to and Executive Director of the ManaSota League of Cities.

A friendly amendment was made by Member Levin to accept the changes proposed to Section 5, Article VI, City Charter, with the exception of Section 5(s), Article VI, City Charter, and to change the wording in proposed Section 5(r), Article VI, City Charter, to "serve as a liaison to advisory boards and citizens and governmental organizations," which was not accepted by the maker of the motion and which failed for lack of a second.

An amendment was made by Member Jaensch, seconded by Member Berkel, to accept the proposed changes to Section 5, Article VI, City Charter, with the exception of Sections 5(r) and (s), Article VI, City Charter, and carried by a 6-2 vote with Members Battie and Levin voting no.

Chair Serrie called for a vote on the motion as amended to approve the changes recommended by the City Auditor and Clerk to Section 5, Powers and Duties, Article VI, City Charter with the exception of Sections 5(r) and (s), Article VI, City Charter, which passed by an 8-0 vote.

8. **DISCUSSION RE: CITY OF SARASOTA CHARTER OFFICIALS: ARTICLE VII. CITY ATTORNEY (AGENDA ITEM V-4)**

SECTION 1 – APPOINTMENT AND QUALIFICATIONS

AND

SECTION 3 – APPOINTMENT OF ASSISTANTS OR DEPUTIES

AND

SECTION 4 – DUTIES

City Attorney Fournier stated that Sections 3(a) and (b), Appointment of Assistants or Deputies, Article VII, City Charter, can be combined to read as follows:

The city attorney may appoint members of the Florida Bar as deputies as provided for in the table of organization as adopted by ordinance to carry out his/her duties.

Member Patterson stated that the word "the" in "The Florida Bar" should be capitalized; that the phrase "his/her" should be replaced by the phrase "the city attorney's."

Chair Serrie noted Committee consensus to approve the changes recommended by the City Attorney with the changes recommended by Member Patterson.

City Attorney Fournier stated that changes are recommended in Section 4(c), Duties, Article VII, City Charter, to read as follows:

- (c) Prepare or review all written contracts entered into by the city when signatures of the mayor and city auditor and clerk are required and approve same as to form and correctness. No such contracts shall take effect until his/her approval is endorsed. The city attorney may authorize a deputy attorney to perform this duty during his/her absence.

Member Patterson stated that the term "his/her" should be changed to the "city attorney's."

Chair Serrie noted Committee consensus to approve the City Attorney's recommendation regarding Section 4(c), Duties, Article VII, City Charter, as revised by Member Patterson.

9. **DISCUSSION RE: ARTICLE IX. NOMINATIONS, ELECTIONS AND REFERENDA (AGENDA ITEM VI-1)**

SECTION 4 – CONDUCT OF ELECTIONS

City Attorney Fournier stated that a change is recommended in Section 4(e), Conduct of Elections, Article IX, City Charter, to comply with recent changes in State Law; that the only change concerns the due date of the last period candidate treasurer's reports; that Section 4(e), Conduct of Election, Article IX, City Charter, refers to the sixth day prior to the date of the election which should be changed to the fourth day prior to the date of the election; that the result would be the last period candidate treasurer's reports must be hand delivered to the Office of the City Auditor and Clerk by 5:00 p.m. on the fourth day prior to the election.

A motion was made by Member Patterson, seconded by Member Levin, to accept the City Attorney's recommendation, and carried by an 8-0 vote.

10. **DISCUSSION OF ITEMS FOR NEXT AGENDA (AGENDA ITEM IV)**

Member Patterson stated that a motion to rescind the following motion approved at the February 1, 2011, Committee meeting will be added to the Agenda of the March 1, 2011, Committee meeting:

Chair Serrie called for a vote on the motion as amended which carried by a 10-0 vote to delete the language "The incumbent mayor shall present an annual State of the City message" and add to the powers and duties of the City Manager under Section 5, Article V, for the City Manager to present a State of the City message to the Commission.

Chair Serrie stated that the following items will be on the next Agenda:

Section 19, Written Contract, Article IV, City Charter
Section 6, Audit of Accounts, Article VI, City Charter

11. **ADJOURN (AGENDA ITEM VII)**

The meeting of the Charter Review Committee adjourned at 9:11 p.m.

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF MARCH 1, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Hank Battie, Elmer Berkel, Arthur Levin, Jim Lampl, John Patterson, and Shannon Snyder, City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: Member Virginia Hoffman-Meketon, due to a family obligation, and Member Chris Jaensch, due to illness

The meeting was called to order at 6:00 p.m.

1. CITIZENS' INPUT

No one signed up to speak.

2. APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF FEBRUARY 15, 2011 (AGENDA ITEM II)

Member Levin stated that the following statement under Agenda Item III, Rescission Re: ... motion to change the titles from mayor, vice mayor, and acting mayor to chair, vice chair, and acting chair should be clarified as follows:

From:

Mollie Cardamone indicating the petition previously presented accurately reflects the views of all but two of the former Mayors.

To:

Mollie Cardamone indicating the petition previously presented accurately reflects the views of the signatories, which are all but two of the former Mayors.

City Auditor and Clerk Nadalini stated that the minutes will be clarified.

Chair Serrie noted Committee consensus to approve the minutes of the February 15, 2011, meeting of the Charter Review Committee as clarified.

3. RESCISSION RE: REQUEST TO RESCIND A MOTION MADE ON FEBRUARY 1, 2011 BY MEMBER BERKEL AND SECONDED MEMBER LAMPL, AS AMENDED WHICH CARRIED BY A 10-0 VOTE TO DELETE THE LANGUAGE "THE INCUMBENT MAYOR SHALL PRESENT AN ANNUAL STATE OF THE CITY MESSAGE" AND ADD TO THE POWERS AND DUTIES OF THE CITY MANAGER UNDER SECTION 5, ARTICLE V, FOR THE CITY MANAGER TO PRESENT A STATE OF THE CITY MESSAGE TO THE COMMISSION (AGENDA ITEM III)

A motion was made by Member Patterson and seconded by Member Levin to rescind the motion approved at the February 1, 2011, Committee meeting to delete the language "the incumbent mayor shall present an annual state of the city message" in Section 8, Article III, City Charter, and add to the powers and duties of the city manager under Section 5, Article V, City Charter, for the city manager to present a State of the City message to the Commission.

Member Patterson stated for clarification that the intent is not to delete the requirement but rather allow for Committee consideration of a presentation of a State of the City message by the Mayor as well as a report by the City Manager.

Discussion ensued concerning implicit compared to explicit duties, achievement of the goals of the City, the function of the Mayor in delivering a State of the City message, the Mayor as a representative of the Commission, the development of the State of the City message, the potential for minimization of the Mayor and the Commission, delivery of the State of the City message, the current duties of the City

Manager as enumerated in the City Charter, the collaborative effort inherent in the State of the City message, the function of the Office of the City Auditor and Clerk in the development of the State of the City message, reports regarding achievement of goals, the method of developing the City's goals and priorities, the functions of the Mayor and City Manager, input by the Charter Officials into the State of the City message, the responsibility of the Commission to establish policy, policy implications, if any, of the State of the City or other annual message, the method of developing a State of the City message with input from all Commissioners, the role of Florida's Government-in-the-Sunshine laws, the availability of printed documents for the State of the City message, availability of the State of the City message through the archives, cost of developing a video for the State of the City message, the authorship of the State of the City message, the appropriateness of providing for the State of the City message in the City Charter, and the value of the State of the City message to the community.

A motion was made by Member Berkel, seconded by Member Lampl to amend the motion to rescind to delete the following language from the main motion:

... and add to the powers and duties of the city manager under Section 5, Article V, for the city manager to present a state of the city message to the commission.

Member Patterson stated that the Committee can take whatever action desired if the motion to rescind is successful.

In response to a comment from Member Berkel concerning amending a motion to rescind, City Auditor and Clerk Nadalini stated that, after a review of Robert's Rules of Order, a motion to amend may be made to a motion to rescind.

Member Berkel stated that the effect of voting for the amendment and the main motion to rescind would be to take the portion of the rescission which would revert the State of the City message back to the Mayor and would not vest the message in the City Manager.

Following discussion, Chair Serrie called for a vote on the amendment to the main motion which failed by a 4-4 vote with Vice Chair Chepote and Members Levin, Patterson, and Battie voting no.

Discussion ensued concerning the current process for the developing the State of the City message, reports on goals and priorities, the Commission's Rules of Procedure for goal-setting sessions, and input of the public into the goal-setting sessions.

City Auditor and Clerk Nadalini referred to reports distributed previously including:

1999 Annual Report of the City
City of Sarasota Strategic Plan 2010 Progress Report

Discussion continued regarding public presentation of the Strategic Plan, prior State of the City messages, distribution of the State of the City message, presentation to the citizenry of the City's activities, the type of report desired for the citizens, the need for a concerted effort in preparing an annual report, the community input reported in the State of the City message, the content of the State of the City message, and the involvement of City staff in development of the State of City message.

A motion was made by Member Patterson, seconded by Member Levin, it was moved to call the question which carried by a 8-0 vote.

Member Berkel stated that an affirmative vote would remove the State of the City message from the City Manager and transfer the message back to the Mayor.

Chair Serrie called for a vote on the motion to rescind the motion approved at the February 1, 2011, Committee meeting to delete the language "the incumbent mayor shall present an annual state of the city message" in Section 8, Article III, City Charter, and add to the powers and duties of the City Manager

under Section 5, Article V, City Charter, for the City Manager to present a State of the City message to the Commission which failed by a 4-4 vote with Chair Serrie and Members Berkel, Lampl and Snyder voting no.

A motion was made by Member Levin and seconded by Member Battie to add to the responsibilities of the Mayor to deliver an annual State of the City message developed through a collaborative effort of the Commissioners and the Charter Officials.

Discussion ensued concerning the effect of Florida's Government-in-the-Sunshine Laws, the format of the annual State of the City message, the message as a policy direction, the value of the message to the community, and the cost to produce the report.

City Auditor and Clerk Nadalini stated that the cost of the annual State of the City message is staff time; that the cost of the City Manager's annual report can be ascertained and reported.

Discussion continued regarding distribution of the report, an annual report of the strengths and weaknesses of and threats to the City, the identification of the challenges to the City, the need for a substantive report, and recommendations of the chief executive officer to the Commission,

A friendly amendment to the motion was made by Member Battie to require the annual State of the City message be advertised at least a week prior to delivery.

Member Levin as the maker of the motion accepted the friendly amendment.

Following discussion, Chair Serrie called for a vote on the motion as amended to add to the responsibilities of the Mayor to deliver an annual State of the City message dealing with policy past, present, and future developed through a collaborative effort of the Commissioners and the Charter Officials and advertise the date of delivery at least a week prior which failed by a 3-5 vote with Chair Serrie, Vice Chair Chepote and Members Berkel, Lampl, and Snyder voting no.

A motion was made by Member Patterson and seconded by Member Berkel to delete the requirement in Section 8, Article III, City Charter, for a State of the City message.

Following discussion, Chair Serrie called for a vote on the motion which carried by a 7-1 vote with Member Battie voting no to delete the requirement in Section 8, Article III, City Charter, for a State of the City message.

The Committee recessed at 7:20 p.m. and reconvened at 7:30 p.m.

4. **APPROVAL RE: PROPOSED NEW CHARTER PROVISION - ARTICLE VI. CITY AUDITOR AND CLERK, SECTION 6 – AUDIT OF ACCOUNTS (AGENDA ITEM IV)**

City Auditor and Clerk Nadalini stated that, as directed by the Committee, the Charter Officials met and agreed on language for Section 6, Audit of Accounts, Article VI, City Charter and displayed on the overhead revised language as follows:

Sec. 6. Audit Function

With regards to auditing, the city auditor and clerk's duties shall include, but not be limited to, reviewing, investigating and evaluating systems of internal control to promote adequate safeguarding of assets, reliability of financial and operating information, and compliance with laws and regulations. The city auditor and clerk shall have the authority to audit all operations, functions and divisions of the city and recommend changes for improvements. The city auditor and clerk shall have full and unrestricted access to records, data, personnel and other information necessary to effectively carry out the auditing function.

A motion was made by Member Patterson and seconded by Member Battie to approve the recommended language.

Member Snyder stated that the proposed language appears to take power away from the City Auditor and Clerk compared to the previously recommended language as follows:

<u>Previous Recommendation</u>	<u>Current Recommendation</u>
ensure	promote
at all times	deleted
effectiveness and efficiency of operations	deleted

City Auditor and Clerk Nadalini stated that the language in the previous recommendation is consistent with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors (IIA).

Member Patterson stated that the preference is for the language recommended by consensus of the three Charter Officials.

Chair Serrie called for a vote on the motion which carried by a 7-1 vote with Member Snyder voting no.

5. **DISCUSSION RE: ARTICLE IV. POWERS AND DUTIES OF CITY COMMISSION (AGENDA ITEM V-1 AND -2)**

SECTION 13 – GRANT OF PRIVILEGES, COMMERCIAL AND FRANCHISE LEASES

AND

SECTION 19 – WRITTEN CONTRACTS

City Attorney Fournier stated that Section 13 concerns approval of franchises by ordinance; that Section 19 concerns approval of written contracts which allows the Commission by ordinance to allow the Charter Officials to approve certain contracts; that a question is the definition of a franchise; that in this context, the reference is to a municipal franchise; that one definition does not exist; that upon review, the following definition appears illustrative:

A special privilege to do certain things that is conferred by a government on an individual or corporation and which does not belong to citizens generally of common right.

City Attorney Fournier continued that the definition explains the use of the term “privileges”; that the Committee had previously inquired as to the possibility of limitations; and provided an overview of limitations, if any, in the cities of St. Petersburg, Clearwater, Tampa, Ft. Myers, Naples, Ft. Lauderdale, Lakeland, Venice, and Vero Beach, Florida.

City Attorney Fournier further stated that his recommendation is to retain the word “privileges” and eliminate the words “commercial” and “leases”; that no benefit is seen to listing the types of franchises; that the recommended title of Section 13 is Grant of Franchises; that recommended language for Section 13 is:

All privileges conferred under any franchise from the city shall be granted by an ordinance of the city commission.

Member Lampl stated that the threshold for major franchise should be raised; that a supermajority vote by the Commission is proposed.

City Attorney Fournier stated that 30 years is a common duration for franchises in the cities surveyed due to the infrastructure required; that additional limitations are sometimes imposed for the sale or lease of certain municipally-owned property such as waterfront property.

Discussion ensued regarding the definition of the terms "major" and "waterfront."

Member Patterson stated that a determination as to whether he should recuse himself from the vote is requested; that his law firm has represented Marina Jacks for a considerable period of time.

City Attorney Fournier stated that no conflict is discerned as the current Marina Jacks lease could extend to the year 2027, with options which could extend to 2047.

A motion was made by Member Lampl and seconded by Member Levin to amend the language recommended by the City Attorney for Section 13, Grant of Franchises, to require a supermajority vote for franchises of greater duration than ten years.

Following discussion, Chair Serrie called for a vote on the motion which carried by a 5-3 vote with Members Berkel, Chepote, and Patterson voting no.

City Attorney Fournier stated that leases should be added to Section 19, Written Contracts, City Code, as leases are contracts.

A motion was made by Member Lampl, seconded by Member Levin, and carried by a 5-3 vote with Members Berkel, Chepote, and Patterson voting no to require a supermajority vote for contracts and leases of longer than ten years duration for Section 19, Written Contracts and Leases, City Code.

A motion was made by Member Battie and seconded by Member Lampl to add to Article IV, City Commission, a requirement for a citizens' workshop within a month following a city election for Commission seats.

Following discussion, Chair Serrie called for a vote on the motion which failed by a 3-5 vote with Chair Serrie, Vice Chair Chepote, Berkel, Patterson, and Snyder voting no.

Chair Serrie stated that idea is good and should be included as a recommendation in the Committee's report.

6. **DISCUSSION RE: PERMANENT SPRING ELECTION DATES (AGENDA ITEM VI)**

City Attorney Fournier stated that temporary dates for the election were previously approved; that the question is should the temporary dates be recommended to become permanent; that the dates are:

Regular Election:	Second Tuesday in March
Runoff Election:	Second Tuesday in May

A motion was made by Member Snyder, seconded by Member Patterson, and carried by a 10-0 vote for the previously recommended and approved temporary dates for the elections to become permanent.

7. **DISCUSSION RE: SPECIAL MEETING TO BE HELD MARCH 10, 2011 TO REVIEW FINAL CHARTER PROPOSAL (AGENDA ITEM VII)**

Chair Serrie stated that the next meeting is not scheduled until March 29, 2011; that the question is whether to schedule a special meeting for March 10, 2011, to review the final recommendations.

Following discussion, Chair Serrie noted Commission consensus not to schedule a special meeting for March 10, 2011, and proceed with the next meeting as scheduled on March 29, 2011.

8. **DISCUSSION OF ITEMS FOR NEXT AGENDA (AGENDA ITEM VIII)**

Member Lampl stated that any recommendations which will be included in the final report to the Commission but not recommended for inclusion in the City Charter should be reviewed by the Committee.

Chair Serrie noted Committee consensus to return a list of recommendations for inclusion in the report but not in the City Charter will be presented to the Committee.

9. **ADJOURN (AGENDA ITEM XI)**

The meeting of the Charter Review Committee adjourned at 8:20 p.m.

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF MARCH 29, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Hank Battie, Elmer Berkel, Arthur Levin, Jim Lampl, Virginia Hoffman-Meketon, Chris Jaensch, John Patterson, and Shannon Snyder, City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: None

The meeting was called to order at 6:00 p.m.

1. **CITIZENS' INPUT**

No one signed up to speak.

2. **APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF MARCH 1, 2011 (AGENDA ITEM II)**

Member Levin stated that the minutes of the March 1, 2011, meeting of the Charter Review Committee should be amended under Item II, Approval of Minutes as follows:

From:

Mollie Cardamone indicating the petition previously presented accurately reflects the views of all but two of the former Mayors.

To:

Mollie Cardamone indicating the petition previously presented accurately reflects the views of the signatories, which are all but two of the former Mayors.

City Auditor and Clerk Nadalini stated that the minutes will be amended.

Chair Serrie noted Committee consensus to approve the minutes of the March 1, 2011, Committee meeting as amended.

3. **APPROVAL RE: PROPOSED NEW CHARTER PROVISIONS (AGENDA ITEM III)**

AND

DISCUSSION RE: ARTICLE IV. POWERS AND DUTIES OF CITY (AGENDA ITEM IV)

SECTION 14 – ESTABLISHMENT OF RETIREMENT SYSTEMS

SECTION 19 – WRITTEN CONTRACTS

AND

DISCUSSION RE: MUNICIPAL ELECTION CANVASSING BOARD (AGENDA ITEM V)

Chair Serrie stated that some issues were designated as items the Commission should consider but changes are not recommended in the City Charter by the Committee including residency of City employees, review of substantive issues in the State of the City message, potential costs savings in the spring elections based upon possible reduction in the number of precincts due to the increasing number of absentee ballots and early voting, and the cost of City elections compared to other jurisdictions.

Member Berkel stated that Member Lampl has presented some issues regarding Article IV, City Charter, and asked if Agenda Item IV, Discussion Re: Article IV. Powers and Duties of City Commission should be discussed before Agenda Item III, Proposed New Charter Provisions.

City Attorney Fournier stated that the Agenda Items can be discussed in any order the Committee desires.

Chair Serrie noted Committee consensus to discuss Agenda Item IV, Discussion Re: Article IV. Powers and Duties of City Commission at the appropriate location during the discussion of Agenda Item III, Proposed New Charter Provisions followed by a discussion of Agenda Item V, Discussion Re: Municipal Election Canvassing Board.

City Attorney Fournier stated that seven items are recommended as ballot questions if the Commission accepts the recommendations of the Charter Review Committee as currently presented:

Question 1: Article III, City Commission, Section 3, Compensation

Discussion ensued as to whether to add the phrase “no less than” in front of the phrase “a minimum annual salary.”

Chair Serrie noted a majority of Committee agreement not to add the phrase “no less than” by an 8-2 majority with Chair Serrie and Member Levin not in agreement.

Question 2: Article IV, Powers and Duties of City Commission, Sections 13, Grant of Franchise Leases, and 19, Written Contracts

City Attorney Fournier stated that a parenthetical phrase “(including leases)” will be added after the word “contract” in Section 19, Article IV.

Discussion ensued concerning the requirement for at least four Commissioners voting in favor, i.e., a supermajority vote, of certain franchise leases and contracts, employment contracts, contracts which are terminable at will by either party, other long-term obligations of the City such as encroachments, and the sale of City-owned property dedicated to public parkland or located on the waterfront,

A motion was made by Member Patterson, seconded by Member Lampl, and carried by a 10-0 vote to combine Sections 13 and 19, Article IV, City Code.

A motion was made by Member Patterson, seconded by Member Hoffman, to include in the amended Section 19, Article IV, City Code, a requirement for a supermajority vote specifically for employee contracts and employee benefits such as pensions and health care if the commitment is longer than ten years.

In response to a question from Member Berkel asking if employment-at-will contracts, Member Patterson stated no, a supermajority vote would be required if the legal obligation is longer than ten years.

Discussion ensued concerning employee contracts and employee benefits, a requirement for a supermajority vote, a unanimous vote, or a referendum, and adequate funding for pension plans.

City Manager Robert Bartolotta and Financial Administration Director Christopher Lyons came before the Committee.

Discussion continued regarding collective bargaining agreements, the pension multiplier, cost-of-living adjustments (COLAs), impasse in collective bargaining negotiations, health care benefits, mandates by the State legislature, an exemption for State legislative action, and the relation of the economic condition of the community with pension benefits.

Chair Serrie repeated and called for a vote on the motion to include in the amended Section 19, Article IV, City Code, a requirement for a supermajority vote of the City Commission specifically for employee

contracts and employee benefits such as pensions and health care if the commitment is longer than ten years which carried by a 10-0 vote.

A motion was made by Member Patterson and seconded by Member Snyder to require a supermajority vote for any increase in compensation or benefits beyond the level in the current budget.

Discussion ensued concerning approval of collective bargaining agreements, the duration of collective bargaining agreements, increases and decreases in compensation, enumeration in the City Code of every issue requiring a supermajority vote, the value of economic projections.

An amendment to the main motion was made by Member Battie to require a supermajority vote for any change in compensation.

Discussion continued regarding due deference to the Commission.

In response to a question from City Auditor and Clerk Nadalini asking if the maker of the motion would accept the amendment, Member Patterson stated yes.

Following discussion, Chair Serrie called for a vote on the main motion to require a supermajority vote for all changes in employee compensation or benefits from the level in the current budget, which carried by a 6-4 vote with Members Berkel, Hoffman, Jaensch, and Levin voting no.

Discussion ensued concerning the long-term impactful decision of selling real property, the exchange of real property, rights-of-way relocations, sales to non-profits or other governmental agencies, street vacations, the terms of a purchase and sale contract, donation of real property, the effect of the distressed economy on the price of real property, purchasing real property, appraisals of real property, leases of longer than ten years, and the language in the last sentence of Section 19, Article IV.

City Attorney Fournier stated that the parenthetical phrase "(including leases)" will be added to the second paragraph in Section 19, Article IV and the following sentence in Section 19, Article IV, will be revisited:

This provision shall apply to all contracts to which the city is a party including contracts pertaining to specific contractual matters declared by ordinance to be exempt from the requirements of this article if the term of such a contract is greater than ten (10) years.

City Attorney Fourier continued that a qualification on the ability of Charter Officials to approve contracts of less than ten years duration could be included in the appropriate section of the City Code.

Question 3: Article VIII, Bonding, Section 5, Further Provisions applicable to bonds.

City Attorney Fournier stated that the question involves the issue of derivatives; that the following language will be included on the referendum if recommended by the Committee and approved by the Commission:

In connection with bonds issued by the city, the city shall not enter into any derivatives. For this purpose, a "derivative" is defined as a financial instrument, the value of which depends on, or is derived from, the value of one or more underlying assets or index or asset values.

Question 4: Article IX, Nominations, Elections and Referenda, Section 5, Elections

City Attorney Fournier stated that the District Seats shall be designated as Seats One, Two, and Three to correspond with the number of the district from which the commissioner is elected; that the At-Large Seats shall be designated as Seats Four and Five; that candidates for the At-Large Commission Seat will be required to specify the numbered seat being sought.

Discussion ensued concerning the qualifying date for City elections, the clarity of the election process, possible divisiveness of the proposal, the determination of the designation of Seats Four and Five, the encouragement of an engaged citizenry, and single-shot voting.

The Committee recessed at 7:20 p.m. and reconvened at 7:25 p.m.

Question 5: Article IX, Nominations, Elections and Referenda, Section 8, Referendum on issuance of certificates of participation and certain bonds.

City Attorney Fournier stated that the revised language is to address the Committee's concerns regarding issuance of certificates of participation and of bonds to finance tourism facilities; that certificates of participation should be defined as being issued for any purpose.

Discussion ensued concerning the issuance of general obligation bonds and revenue bonds, the scope of the definition of "tourism facilities" indicated as including zoological gardens, museums or professional sports facilities, and the application to any major capital project.

A motion was made by Member Patterson and seconded by Member Snyder to eliminate the word "tourism" from the application of Section 8, Article IX.

An amendment to the main motion was made by Member Snyder to exempt sewer, water and roads projects.

Member Patterson as the maker of the motion accepted the amendment.

City Attorney Fournier stated that bond counsel will be contacted to assure agreement.

Following discussion, Chair Serrie restated and called for a vote on the motion to eliminate the reference to "tourism facilities" from the application of Section 8, Article IX, and include all capital projects except sewer, water and roads projects, which carried by an 8-2 vote with Members Jaensch and Levin voting no.

Question 6: Article X, Charter Amendments, Section 1, Proposal of Amendments

City Attorney Fournier stated that the change is to extend the period for obtaining required petition signatures from 90 to 180 days and to specify the date from which measured as the date submitted to the Office of the City Auditor and Clerk.

Question 7: Article XI, Miscellaneous Provisions, Section 4, Alternative Minimum Wage Requirements for Certain Employers.

City Attorney Fournier stated that the Committee decided to recommend deletion of the entire Section 4, Article XI, concerning alternative minimum wage requirements for employers who receive taxpayer-financed benefits; that Question 7 concludes his presentation of the significant changes recommended by the Committee.

Member Lampl stated that the City Charter currently does not define the composition of the Elections Canvassing Board.

City Attorney Fournier stated that the Elections Canvassing Board is responsible for determining if provisional votes should be accepted and determines if a recount is required.

Discussion ensued concerning the establishment of the Elections Canvassing Board in the City Charter, the need for determining the composition of the Elections Canvassing Board in the City Charter, the number of people who should sit on the Elections Canvassing Board, the technological complexity of the voting machines.

A motion was made by Member Lampl, seconded by Member Patterson, and carried by a 10-0 vote to establish the requirement in the City Charter for an Elections Canvassing Board.

A motion was made by Member Patterson and seconded by Member Berkel, that the Elections Canvassing Board will be comprised of the City Auditor and Clerk, the City Attorney, and a third person appointed by the City Commission.

Discussion ensued concerning appointing a judge to the Elections Canvassing Board, the service of a judge who is a State employee on the Elections Canvassing Board on a voluntary basis, the role of the Supervisor of Elections, the requirement for three people on the Elections Canvassing Board if required to break a tie.

City Auditor and Clerk Nadalini read into the record and distributed to the Committee portions of the Venice City Charter concerning the Elections Canvassing Board.

An amendment to the main motion was made by Member Hoffman-Meketon to designate the third person as the Mayor or Vice Mayor which failed for lack of a second.

An amendment to the main motion was made by Member Hoffman-Meketon to designate the third person as a City Commissioner or other elected official from Sarasota County which failed for lack of a second.

An amendment to the main motion was made by Member Battie to designate the third person as the Supervisor of Elections for Sarasota County which failed for lack of a second.

Chair Serrie restated and called for a vote on the motion that the Elections Canvassing Board will be comprised of the City Auditor and Clerk, the City Attorney, and a third person to be appointed by the City Commission, which carried by a 9-1 vote with Member Hoffman-Meketon voting no.

Chair Serrie asked if other members have recommended changes.

Member Levin stated that the word "forfeiture" should be added to Section 5, Filling of Vacancies, Article III, City Commission.

Chair Serrie noted Committee consensus to add the word "forfeiture" to Section 5, Filling of Vacancies, Article III, City Commission.

Member Levin stated that Section 5, Filling of Vacancies, Article III, City Commission, should be revised to require a special election within 120 days rather than the 75 days currently required due to changes in State law regarding absentee ballots.

Chair Serrie noted a majority of Committee agreement to change the requirement for a special election from within 75 to 120 days 9-1 majority with Member Jaensch not in agreement.

Member Levin stated that Section 9(a), Meetings, Article III, City Commission, should be revised to read:

The city commission shall meet regularly not less than twice a month. The city commission may waive the requirement to hold two regular meetings in a given calendar month by the affirmative vote of four (4) city commissioners.

Chair Serrie noted Committee consensus to revise the wording in Section 9(a), Article III.

Member Levin stated that the phrase "Unless otherwise stipulated in this Charter" should be added at the beginning of Section 11(b), Quorum and Legislative Procedures, Article III, City Commission.

Chair Serrie noted Committee consensus to revise Section 11(b), Article III.

Member Levin stated that the word “or” should be changed to “of” in Section 2(d), Enactment of Ordinances and Resolutions, Article IV, Powers and Duties of City Commission to read as follows:

It shall be noticed once in a newspaper of general circulation in the city at least ten (10) days prior to first reading.

Chair Serrie noted Committee consensus to approve the revised wording for Section 2(d), Article IV.

Member Levin stated that Section 6(c), Appointment of City Manager, City Auditor and Clerk, and City Attorney, Article IV, Powers and Duties of City Commission, should be revised to delete the phrase “if he/she [the City Attorney] becomes a permanent employee of the city.”

Member Lampl stated that the word “permanent” in the phrase “permanent employee” is a misnomer.

Chair Serrie noted Committee consensus to not to change to language in Section 6(c), Article IV.

Member Levin stated that Section 5(b), Powers and Duties, Article VI, City Auditor and Clerk, should be revised to include public access among the responsibilities.

Chair Serrie noted Committee consensus to approve the additional wording for Section 5(b), Article VI.

Member Levin stated that the last paragraph of Section 5(a)(1), District Seats, Article IX, Nominations, Elections and Referenda, should be revised as follows:

If no candidate is supported by a majority of the voters in the first election, with respect to a given district, a second election shall be held on the second Tuesday in May.

Chair Serrie noted Committee consensus to approve the additional wording for Section 5(a)(1), Article IX.

Member Levin stated that Section 5(b)(1), At-Large Seats, Article IX, Nominations, Elections, Referenda, should be revised to replace the phrase “for either seat four or seat five” with “for the respective seat.”

Following discussion, Chair Serrie noted Committee consensus to not to change the language in Section 5(b)(1), Article IX.

Member Hoffman-Meketon stated that no provision has been made in the recommended composition of the Elections Canvassing Board for the designation of members if the City Auditor and Clerk or the City Attorney is not available.

Chair Serrie noted Committee consensus to designate the Deputy City Auditor and Clerk and the Deputy City Attorney as alternates on the Elections Canvassing Board.

Member Lampl stated that Section 9(b) and (c), Meetings, Article III, City Commission, could be revised to delete the ability of the Mayor to call a special or emergency meeting.

Following discussion, Member Lampl withdrew the recommendation.

A motion was made by Member Levin, seconded by Member Hoffman-Meketon to accept the proposed recommendations and forward the recommendations to the Commission.

Following discussion concerning an additional meeting to approve the final recommendations, Member Levin withdrew the motion.

A motion was made by Member Levin, seconded by Member Patterson, to accept the proposed recommendations and forward the recommendations to the Commission contingent upon a final review by the Committee members within five days of the circulation of the final recommendations.

Discussion ensued concerning the process once the final recommendations are forwarded to the Commission and the process for the proposed ordinance if the recommendations are approved by the Commission.

Chair Serrie requested that Member Levin repeat the motion.

Member Levin repeated the motion as to accept the proposed recommendations and forward the recommendations to the Commission contingent upon a final review by the Committee members within five days of the circulation of the final recommendations and if with a provision the Committee will reconvene to consider the final draft recommendations if two or more members so request.

A motion was made by Member Hoffman-Meketon to call the question which failed for lack of a second.

An amendment was made to the main motion by Member Battie to change the number of Committee members requesting a review to a majority of the Committee which failed for lack of a second.

A motion was made by Member Jaensch, seconded by Member Hoffman-Meketon, and carried by a 10-0 vote, to call the question.

Chair Serrie called for a vote on the main motion to accept the proposed recommendations and forward the recommendations to the Commission contingent upon a final review by the Committee members within five days of the circulation of the final recommendations with a provision the Committee will reconvene to consider the final draft recommendations if two or more members so request, which carried by an 8-2 vote with Members Berkel and Lampl voting no.

In response to a question from City Auditor and Clerk Nadalini asking if the Chair is planning on presenting the Committee's report at the April 4 or 18, 2011, Regular Commission meeting, Chair Serrie stated that the presentation will be made at the April 18, 2011, Regular Commission meeting.

Chair Serrie stated that the next meeting of the Charter Review Committee will be April 12, 2011, if an additional meeting is required.

3. **REMARKS OF COMMITTEE MEMBERS AND ADMINISTRATIVE OFFICERS (AGENDA ITEM VII)**

MEMBER HOFFMAN:

A. stated that serving on the Charter Review Committee has been a pleasure and engaging; that the final document will be pristine.

MEMBER PATTERSON:

A. stated that the efforts of the Chair are complimented.

MEMBER LAMPL:

A. stated that City Auditor and Clerk Nadalini and Staff have provided exemplary customer service.

CHAIR SERRIE:

A. stated that the efforts of the City Attorney and the City Auditor and Clerk have been exceptional.

MEMBER BATTIE:

- A. stated that the efforts of Chair Serrie are complimented; that the efforts of City Auditor and Clerk Nadalini and City Attorney Fournier are appreciated.

MEMBER LEVIN:

- A. stated that the experience has been interesting; that working with everyone has been a pleasure.

4. **ADJOURN (AGENDA ITEM XI)**

The meeting of the Charter Review Committee adjourned at 8:49 p.m.

MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 OF APRIL 12, 2011

PRESENT: Chair Gretchen Serrie, presiding, Vice Chair Manuel Chepote, Members Hank Battie, Elmer Berkel, Arthur Levin, Jim Lampl, Virginia Hoffman-Meketon, Chris Jaensch, John Patterson, and Shannon Snyder, City Auditor and Clerk Pamela M. Nadalini, and City Attorney Robert Fournier

ABSENT: None

The meeting was called to order at 6:00 p.m.

1 CHANGES TO THE ORDERS OF THE DAY

Member Levin requested that Section 5, Article III, be added under Agenda Item V, for discussion of a proposed change.

Chair Serrie stated that hearing no objection, Section 5, Article III, will be added under Agenda Item V.

2. CITIZENS' INPUT

No one signed up to speak.

3. APPROVAL RE: MINUTES OF THE CHARTER REVIEW COMMITTEE 2010 MEETING OF MARCH 29, 2011 (AGENDA ITEM II)

A motion was made by Member Patterson, seconded by Member Snyder, and carried by a 10-0 vote to approve the minutes of the March 29, 2011, Charter Review Committee 2010 meeting.

4. DISCUSSION RE: ARTICLE IV. POWERS AND DUTIES OF CITY COMMISSION – CITY ATTORNEY FOURNIER

SECTION 13 – GRANT OF PRIVILEGES, COMMERCIAL, AND FRANCHISE LEASES (AGENDA ITEM III)

City Attorney Fournier stated that the revised black-lined version of the Charter following the last meeting should reflect all the changes made; that he met with the City Manager and Finance Director to discuss the changes to Article IV, Section 13, specifically Paragraph(c); that the language in Article IV, Section 13, Paragraph(c), as currently presented is extremely broad affecting any change in compensation or benefits; that every vote taken would require a supermajority vote; that the primary concern of the Committee was changes in the pension plans; that following is the proposed revised language which the City Manager and Finance Director believe clarifies when a supermajority vote is required:

The affirmative vote of four City Commissioners shall be required to approve any change in the terms of the City's pension plan which has the effect of increasing the actuarially accrued liability of the plan as calculated by the plan's actuary"

Member Jaensch stated that he originally opposed the provision; that the Committee is urged to reconsider as his belief is the provision is a policy and political issue which does not belong in the Charter; that the hope is the entire provision is stricken.

Member Lampl stated that not being able to enforce the provision was the primary concern with considering residency for City employees; that the provision is not seen as invalid for the same reason; that the provision is enforceable and measurable according to the actuary measurement; that the provision is not a political statement; that the Commission should vote on the provision.

A motion was made by Member Lampl, seconded by Member Patterson, and carried by a 9-1 vote to accept the revised language regarding the actuarial measurements for pensions proposed by the City Attorney with Member Jaensch voting no.

5. **DISCUSSION RE: ARTICLE IX. NOMINATIONS ELECTIONS AND REFERENDA – CITY ATTORNEY FOURNIER**

SECTION 8 – REFERENDUM ON ISSUANCE OF BONDS (AGENDA ITEM IV)

City Attorney Fournier stated that the general rule for revenue bonds is no referendum is required; that the Committee had discussed an exception to the general rule to require a referendum if the revenue bonds were used to fund or finance tourism facilities; that the issue then became the definition of tourism facility; that the Committee proposed the exception would become the general rule, requiring a referendum on bonds issued for everything except roads and water and sewer; that the Administration had a concern as the City would have to have bonded the Palm Avenue Parking Garage and the Robert L. Taylor Community Complex, for example; that the Administration slightly modified the language to indicate the language proposed in January 2011 with the addition of zoos, conference and convention centers, and theme and amusement parks; that the Administration's preference is to adopt the proposed modified language which is easier to understand and will prevent a referendum being held for items which the Administration believes is not necessary and not the intent of the Committee.

Member Hoffman-Meketon stated that the placement of a monetary limit above which a referendum is required would be easier and more practical; that the wording approved by the Committee should be maintained with the addition of language indicating any amount of \$10 million or more requires a referendum; that \$10 million seems a reasonable amount as the cost to construct the Palm Avenue Parking Garage was approximately \$7 million.

In response to a question by Chair Serrie asking if the concerns are met with the language proposed by Member Hoffman-Meketon, City Attorney Fournier stated that the placement of a limit above which a referendum is required could be acceptable if the Committee desires.

Member Hoffman-Meketon stated for clarification that she would like to maintain the language the same which identifies the items which are exempt and all other with a cost of \$10 million or more would require a referendum.

In response to a question by Member Patterson asking if a referendum would not be required if a tourism facility has a construction cost under \$10 million and certificates of participation are utilized, Member Hoffman-Meketon stated that the intent is to keep the provision simple and clear; that the need to designate tourism facilities does not seem necessary as citizens will speak in opposition to a project not desired.

Member Snyder stated that the City's involvement with certificates of participation is not understood; that the use of certificates of participation by the City is inappropriate; that the Committee wanted to obtain a public vote regarding revenue bonds; that the proposed language should separate revenue bonds from certificates of participation.

Deputy City Manager Marlon Brown came before the Committee and stated that the Robert L. Taylor Community Complex would have required a referendum as the cost is approximately \$12 million; that the Committee is requested to exclude projects which are included in the City's Local Option Sales Tax (L.O.S.T.), also known as the penny sales tax, project list from the referendum requirement as the L.O.S.T. is approved by voters.

Member Patterson stated that any certificate of participation should be approved by the voters regardless of the type of project or amount; that General Obligation (G.O.) bonds must be approved by the voters; that other types of bonds do not require voter approval; that the proposed provision would require voter approval for bonds used to finance tourism facilities secured by taxes or other revenues.

City Attorney Fournier stated that the statement is correct.

A discussion ensued concerning the eliminating the City's use of certificates of participation, voter approval for revenue bonds used for the construction of tourism facilities, concern of other projects categorized as tourist facilities, and the separation of certificates of participation and revenue bonds into different sections.

City Attorney Fournier stated that he could prepare the language for the individual sections for certificates of participation and revenue bonds.

Member Hoffman-Meketon stated that the Committee should discuss the inclusion of language in the Charter concerning the use of certificates of participation and revenue bonds.

City Attorney Fournier stated that the belief is the original intent of the Committee was to require a referendum for approval of certificates of participation which are not normally used by municipalities.

Member Hoffman-Meketon stated that separate sections for certificates of participation and revenue bonds should be created to allow the addition of language requiring a public referendum for certificates of participation.

Member Jaensch stated that certificates of participation have not been previously used and currently are not a problem for the City; that he generally opposes the proposed provision for certificates of participation.

Member Levin stated that no ambiguity is seen in the proposed language; therefore, a reason to separate certificates of participation and revenue bonds is not seen.

Member Berkel stated that some confusion was observed during the discussion regarding certificates of participation and revenue bonds; that the language should be separated; that municipalities in southeast Florida have used certificates of participation to avoid a referendum for a General Obligation (G.O.) bonds; therefore, the belief is certificates of participation should be added to the section pertaining to G.O. bonds to require a referendum for both items.

City Attorney Fournier stated that the current section is fine; that two separate paragraphs can be prepared for clarification.

Member Hoffman-Meketon stated that a significant concern is a Charter Review Committee is only convened once every five to ten years; that anything can occur in a volatile environment; that the items should be separated to protect the voters.

A discussion ensued concerning the ability of the Commission to approve one of two items if the certificates of participation and revenue bonds are not separated, and the possible elimination of language pertaining to certificates of participation from the Charter.

A motion was made by Member Patterson, seconded by Member Hoffman-Meketon, which carried by a 10-0 vote to direct the City Attorney to redraft the proposed amendment for presentation to the Commission including the preparation of Paragraph(a) to clearly indicate certificates of participation require voter approval and Paragraph(b) to indicate revenue bonds to finance tourism facilities, as defined, require voter approval.

Member Patterson stated that Member Hoffman-Meketon had proposed a monetary limit which the Committee has not yet addressed; and asked if the consensus of the Committee is not to impose a monetary limit.

Member Levin stated that a monetary limit was not supported by other members of the Committee.

Member Hoffman-Meketon stated that the action just taken by the Committee addresses the concern of the monetary limit.

6. **DISCUSSION RE: ARTICLE III. CITY COMMISSION – MEMBER LAMPL**

**SECTION 10 – ALL MEETINGS IN PUBLIC; RULES AND ORDER OF BUSINESS;
MINUTES OF PROCEEDINGS (AGENDA ITEM V)**

Member Lampl stated that citizens can arrive at a Commission meeting prepared to give a presentation only to discover the presentation cannot be given unless the item is scheduled as a public hearing; that the City Auditor and Clerk provided a copy of the Commission's Rules of Procedure (Rules of Procedure); that the City adopted a resolution approximately one year ago which restricts citizens from making certain comments; that restricting citizens from making political statements is understood; that citizen comments and participation should be encouraged rather than going against the rules of democracy by restricting the comments made by citizens.

City Attorney Fournier gave a summary concerning the case in the City of Cocoa Beach, Florida, which resulted in a court ruling a meeting of a municipality provides a limited public forum; and stated that the limited public forum refers to discussion being limited to the items on an Agenda; that he recommended the City formalize a rule not to allow citizens or candidates to speak regarding a candidacy or wear campaign accessories and/or clothing as well as not to allow citizens' comments concerning pending legal cases.

In response to a comment by Member Lampl indicating the concern is citizens' not having the ability to speak concerning a subject of importance such as the item regarding the proposed prohibition of smoking at City parks, City Auditor and Clerk Nadalini stated that citizens' comments were not allowed as the discussion was part of the report of the Parks, Recreation, and Environmental Protection Advisory Board (Parks Board); that the Rules of Procedure do not allow citizens' comments under board reports; that the Commission generally will allow citizens' comments concerning items scheduled under Unfinished Business or Public Hearings, etc.; that the Rules of Procedure have been established to maintain order at a Commission meeting.

Member Lampl stated that the Rules of Procedure are arbitrary and capricious; that citizens' input should be fundamental during the discovery process.

Member Hoffman-Meketon stated that a change in the Rules of Procedure would be nice; however, the Rules of Procedure are not a Charter item for discussion; that a City ordinance allows every board to create their own Rules of Procedure; that a change can be made by requesting the Commission to change their Rules of Procedure.

Member Patterson stated that the reason for the proposed amendment to the Rules of Procedure is understood; however, the Rules of Procedure do not belong in the Charter.

Member Lampl stated that the reason the Rules of Procedure have a significant place in the Charter is the Commission has the ability to make any rules desired if the Charter is silent; that the Commission is an elected body; that a new Commission could promulgate any rules desired if not prohibited by State Statute or the Charter.

Member Berkel stated that the public is not denied the right to speak as the public will have the right to speak when an item is presented to the Commission for approval; that people in the past signed up to speak at Commission meetings to disrupt the process; that the current Rules of Procedure do not seem problematic.

Member Lampl stated that precluding public input at the beginning of the process allows for the creation of momentum to make things happen.

A motion was made by Member Jaensch and seconded by Member Patterson for the Committee not to take any action regarding the Commission's Rules of Procedure.

A discussion ensued concerning different methods in which a citizen can express concerns to the Commissioners, the public's having opportunities to speak to an item prior to a Commission meeting, and the timing of allowing public input on certain matters on an Agenda.

A motion was made by Member Berkel, seconded by Member Patterson, which carried by an 8-2 vote with Members Lampl and Levin voting no to call the question.

Chair Serrie called for a vote on the motion for the Committee not to take action regarding the Commission's Rules of Procedure, which carried by an 8-2 vote with Members Lampl and Levin voting no.

Member Levin stated that the Committee should suggest the Commission allow public input on items which would otherwise be prohibited during the course of the meeting under Citizens' Input.

In response to a question by Chair Serrie asking if the Committee would like a mention of the concern of not allowing public input under Citizens' Input on an item which does not allow citizens' comments, Member Hoffman stated no as the motion indicates no action will be taken regarding the Rules of Procedure.

Member Levin stated that Section 5, Article III, the Charter, indicates "an individual elected, appointed"; that the word "or" should be added following the word elected.

Chair Serrie noted Committee consensus to add the word "or" following the word elected.

7. **APPROVAL RE: PROPOSED NEW CHARTER PROVISIONS – CITY ATTORNEY FOURNIER (AGENDA ITEM VI)**

A motion was made by Member Snyder, seconded by Member Hoffman-Meketon, which carried by a 10-0 vote to forward the recommended amendments to the Charter.

Chair Serrie stated that Board Report of the Charter Review Committee concerning the proposed revisions to the Charter will be presented during the afternoon session of the April 18, 2011, Regular Commission meeting.

8. **ADJOURN (AGENDA ITEM IX)**

The meeting of the Charter Review Committee adjourned at 7:05 p.m.