



AGENDA

**CHARTER REVIEW COMMITTEE MEETING
WEDNESDAY, DECEMBER 13, 2023, AT 6:00 P.M.**

CITY OF ST. AUGUSTINE BEACH, 2200 A1A South, St. Augustine Beach, FL 32080

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. INTRODUCTIONS AND RECAP OF PUBLIC PARTICIPATION
- V. REVIEW OPEN TOPICS FROM MEETING 1
 - a. Memo From Staff
 - b. Section 1-4(C)&(D) – Commission Vacancies
 - c. Section 1-5 Legislative Body – Reorganization/Clarifying Language
- VI. MEETING 2 TOPICS:
 - a. City Manager (Sec. 1-8)
 - b. Law Enforcement (Sec. 1-9)
 - c. Public Improvements (Sec. 1-10)
 - d. Fire Protection, Trash and Garbage Removal, and Other Municipal Services (Sec. 1-11)
 - e. Validation of Individual Sections (Sec. 1-12)
 - f. City Clerk (Sec. 1-13)
 - g. City Attorney (Sec. 1-14)
- VII. REVIEW FINDINGS/LIST OF QUESTIONS FOR MEETING 3
- VIII. NEXT MEETING: JANUARY 10, SECTIONS 1-16 THROUGH SECTION 2-7. TOPICS:
 - a. Commission Limitations
 - b. Election Procedures
 - c. Absentee Ballots
 - d. Commission Offices, Groups, and Terms
 - e. Runoff Elections
 - f. Determining Winners; Tie Votes

- g. Form of Ballot
- h. Recall of Elected Officials

IX. ADJOURNMENT

NOTE:

The agenda material containing background information for this meeting is available on the City's website in pdf format or on a CD, for a \$5 fee, upon request at the City Manager's office.

NOTICES: In accordance with Florida Statute 286.0105: "If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this scheduled meeting or hearing, the person will need a record of the proceedings, and for such purpose the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities act, persons needing a special accommodation to participate in this proceeding should contact the City Manager's Office not later than seven days prior to the proceeding at the address provided, or telephone 904-471-2122, or email sabadmin@cityofsab.org.



MINUTES

CHARTER REVIEW COMMITTEE MEETING WEDNESDAY, NOVEMBER 8, 2023, AT 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A South, St. Augustine Beach, FL 32080

I. CALL TO ORDER

Dr. Dumont called the meeting to order at 6:03 p.m.

II. PLEDGE OF ALLEGIANCE

The Committee recited the Pledge of Allegiance.

III. ROLL CALL

Present: Members Margaret England, Edward George, Jeremiah Mulligan, Heather Lane Neville, and Scott Patrou, and Alternates Doug Wiles and Margaret Van Ormer.

Members Kevin Cavanaugh and Marc Craddock were absent.

Also present: Facilitator Dr. Georgette Dumont, City Manager Max Royle, City Clerk Dariana Fitzgerald, Building Official Brian Law, and Planner Jennifer Thompson.

IV. INTRODUCTION OF COMMITTEE MEMBERS AND DR. DUMONT

Dr. Dumont asked the Committee members to introduce themselves.

Mr. Patrou advised that he is an attorney with an office in the City, which mainly focuses on real estate and estate planning.

Ms. Neville, American Institute of Certified Planners, advised that she is in land use and has been involved with city and county comprehensive and land use plans for fifteen plus years in St. Johns County and across the state.

Mr. Mulligan advised that he is also an attorney that practices construction and real estate litigation for a statewide firm with a local office.

Mr. George said that he has a degree in material and science engineering and is a forensic engineer. He said that he was on the Commission for eight years and was the Mayor for one year.

Ms. England advised that she is currently retired from the mortgage banking industry in financial services. She said that she served the City on the Planning and Zoning Board and the Commission where she was the Mayor for two years.

Mr. Wiles advised that he is with Herbie Wiles Insurance as a risk management and insurance agent. He said that he has lived in St. Augustine all of his life and has been in the insurance industry for almost forty-five years. He said that he is also a former member of the Florida House and that he sponsored the legislation that created the City of Palm Coast twenty plus years ago.

Ms. Van Ormer said that she worked for the Florida School for the Deaf and Blind as an administrator for forty years. She said that she has been on the Board for the Lighthouse, the School for the Deaf and Blind Foundation, and several other boards.

Dr. Dumont advised that she teaches at the University of North Florida (UNF) and has lived in Florida since 2010 and lives in Jacksonville Beach. She said that she is the Director of the Master of Public Administration Program at UNF, she was also on the Jacksonville Beach Planning Commission for many years, and she had been on the City Council but chose not to run again. She said that she was on the Public Service Grants Council for the City of Jacksonville where their task was consolidated government and looking at the City, their Charter, the independent agencies, etc. She said that she has been in many of the members' seats before.

V. EXPLANATION OF REVIEW PROCESS BY DR. DUMONT

Dr. Dumont moved on to her PowerPoint presentation [Exhibit A], which started out with a general description of the Sunshine Law. She advised that the purpose of the Sunshine Law is to make sure that the people understand how decisions are being made in their government, increase public trust, and that Florida has one of the strictest Sunshine Laws in the country. She said that all communication between two or more members of the same Board is covered under the Sunshine Law and that it does not matter what medium it goes through. She said that any matter that might come before the Charter Review Committee in the future must be at a noticed meeting so the public could have the opportunity to be heard. She advised that the Committee members cannot communicate with each other by any means, but they could communicate with the Commissioners and City staff as long as they do not use them as liaisons.

Dr. Dumont moved on to the next slide from her PowerPoint, which gave a scenario of a Commissioner's Facebook post of a great idea for updating the Charter and she asked whether a Committee member could comment or like their post or would that be a Sunshine Law violation and why. Mr. George stated that if you comment on their post, you are agreeing with another Commissioner, and everyone is seeing it. Ms. Neville said that it might be innocent, but it might be perceived as being a collaboration and you cannot do that. Dr. Dumont said very good, don't like their post, and just move on.

Dr. Dumont moved on to the meeting requirements portion of her presentation and said that the meetings must be open to the public and there must be a quorum. She advised that the public needs to be notified, preferably seven days in advance, there must be written minutes, and an opportunity for public comments. She said that the meetings and materials must be accessible to everyone including those with disabilities and to work with staff to make sure they are available to those with different needs. She advised that public comments should be taken on specific issues before any official action is taken. She said that if you have information that you want to share, send it through staff for them to share it with the other members. She advised that members could talk to each other about things that will never end up in the Charter such as sports, television, family, etc. She said that every document is considered a public record, such as this PowerPoint, the minutes, your laptop and phone, emails/texts, shared notes, etc. She moved on to the next several slides and advised that members should not take gifts, ask for things, or vote on anything that is a conflict of interest.

Dr. Dumont asked if there were any questions regarding the Sunshine Law. Mr. George asked if there were any emails from the public about this meeting. The City Manager, the City Clerk and Dr. Dumont said none were received. Mr. George asked what happens if emails are received. City Clerk Fitzgerald advised that they would be forwarded to the members.

Dr. Dumont advised that the Charter Review Committee would follow Robert's Rules of Order, such as only discussing the article on the floor, each person would have a chance to speak, to stay on the issue during discussion, and to restate any proposed change before a vote. She advised that each subsequent meeting would begin with a review of the decisions from the previous meeting. She said that there may be some controversial issues or something that the Committee wants more research on, which would be put in the "Parking Lot" and then revisited in March.

Dr. Dumont said that any general public comments that are not on an agenda item would be done at the beginning of the meeting and each person would be allowed three minutes to speak. Article-specific comments would be taken immediately following that discussion, which would also be given three minutes to speak but it is not a discussion and questions would not be answered, but members may choose to address them in the discussion on their own time.

Dr. Dumont asked if there were any questions. Mr. George asked to discuss the process and what happens after we hand our slate of objectives to the Commission. Dr. Dumont advised that it would go to the City Attorney, and then to the Commission for them to vote on each one, which would need two votes to get on the ballot. City Manager Royle advised that it would need to be to the Supervisor of Elections by June 3rd. Dr. Dumont advised that the Commission would vote in May to get it to the Supervisor of Elections by June. Mr. Mulligan asked if two meetings were required for the Commission. Dr. Dumont said yes, and she reminded them that they could speak to Commissioners individually. Mr. George said that if it gets down to the wire, they could always have an extra meeting.

Dr. Dumont moved on to the Municipal Charter portion of her presentation, and she advised that they would be reviewing the City Charter section-by-section to see if it still meets the needs of the City today and for the next ten years. Some things that they would be looking at are the form of government, the Commission's makeup and term limits, the other City key positions, elections, citizen initiatives, height limits, etc. A review would also be done to make sure that the Charter still aligns with State laws and if not, the Charter would be null and void since it must comply with State laws. You would also want to look at whether the Charter would give future Commissions the tools they need to meet the needs of the City and then provide recommendations for them to decide what will move forward to the ballot.

Mr. George said that he was on the last review committee ten years ago and he asked if those recommendations and what was accepted and/or denied could be provided to this Charter Review Committee. Mr. Mulligan asked if this Committee was following the same procedure as the last Committee. Dr. Dumont said that she did not know, but that we would go through Charter Sections 1 through 7 tonight. Mr. George advised that there was a lot more participation for various reasons and that there was a newspaper that reported local news, which is not around anymore, so it is more difficult to know what is going on. Dr. Dumont said that she was hoping that people would show up but maybe they were not interested in Sections 1 through 7. Mr. George asked where people would have seen that. Dr. Dumont advised that it is posted on the City's website. Mr. Wiles asked if they could get a copy of the schedule so they could do their homework. Dr. Dumont agreed.

Mr. Wiles asked if the public notice was in whatever newspaper is available. City Clerk Fitzgerald advised that the City noticed this meeting the same way it does for all Commission meetings by posting it on the City's website, on the roadside and hallway sign boards, and the City's monthly Newsletter. Mr. Wiles asked if it was on the television community service channel. The City Manager and the City Clerk said no. Mr. Wiles asked if it would be appropriate to do that. Dr. Dumont advised that she would be concerned about the willingness to be open and truthful, but if he wanted to request it, she believed that extra staff would be needed to do that. City Manager

Royle agreed that extra staff would be needed upstairs to run the video equipment. Dr. Dumont said that if it is something that he wanted to do in the future, they could do it.

Ms. Neville asked if there are things that are not in the Charter, would they be considered as "Parking Lot" items or could we fit them into appropriate subsections. She said that there are a few things that we do not have as far as a model Charter, which may not be inhibiting us but may help guide us in the future. Dr. Dumont advised that each section has its own areas and subtitles and if it does not fall into one of those subtitles, then email her and she would try to figure out where it fits best. Ms. Neville advised that there are a few things that we would benefit from such as departments, auditing, definitions, and clarity on alignment with strategic goals to support other things that we need as a City, but we cannot talk about them here because they have nothing to do with the Charter but may help guide other things. Dr. Dumont questioned whether Ms. Neville was asking to have them put into the Charter. Ms. Neville said they would still be addressed in the Charter because they would drive the other elements and that she could email them to Dr. Dumont. Dr. Dumont asked her to email them to her and she would see where they best fit to be added to the discussion.

Ms. England said that a discussion with regard to what goes into a Charter, a City Code, and a Comprehensive Plan might be beneficial because there are differences. Dr. Dumont advised that that is why she started with the Constitution because it is the framework of all the other stuff and there is a reason that the other stuff is not in the Constitution because it should be as clean and concise as possible. She said that Land Use items go into the Land Development Regulations (LDR) and the Comprehensive Plan depending on the level of the item and a lot of things can be done by policy and ordinance, so you could have certain policies that you want the Commission itself to pass that it has to follow, which would be an internal Commission policy or it could be a regular department policy. She advised that you really want to stay in the Charter and stay at a high level.

Dr. Dumont moved and showed the Charter Review meeting schedule and said that she was not sure how long/short the meetings would be because she did not know each Member's personality, so she only scheduled Sections 1 through 7 tonight. She advised that if we do not get through the scheduled Sections at a meeting, we would start with those missed Sections at the next meeting so that they would not get pushed into the "parking lot". She said that the Charter is laid out in a certain way, and she would prefer to keep certain things together when we review them.

Dr. Dumont provided the Members with a Sunshine Law handout [Exhibit B].

Dr. Dumont moved on to the review portion of her presentation. She read the preamble and asked the members if they agreed that the preamble still covers everything that they want in the Charter.

It was the consensus of the Charter Review Committee that the preamble still covered the City Charter.

Dr. Dumont advised that the City Charter has three articles and the first is Article 1 - In General and she moved on to the first topic to be reviewed.

VI. FIRST TOPICS TO BE REVIEWED

Dr. Dumont moved on to Section 1.1 Name, and she asked the members if they agreed with the name of the City. She said that she had some legal concerns about the language and that she would change it from St. Johns and the State of Florida to St. Johns in the State of Florida. Mr. Mulligan said that it could be said either way.

It was the consensus of the members that Section 1.1 should remain as is.

Dr. Dumont moved on to Section 1.2 Boundaries, and she said that the City's boundaries would remain the same as they exist on the date this amended Charter takes effect, but that the City would have the power to change its boundaries such as through annexation and follow the State laws. Mr. George asked the City Manager if there was anyone wishing to be annexed into the City. City Manager Royle said no. Ms. England asked if the references to the laws would be reviewed and updated by the City Attorney. Dr. Dumont said that they should be. Ms. Neville suggested to make a note that we need to have them reviewed so that they align. Mr. Mulligan asked if the City Attorney would be attending any future Charter Review meetings. Mr. George asked if the City Attorney was supposed to be here. City Manager Royle said no.

No consensus was asked of the Members for Section 1.2 for the minutes.

Dr. Dumont moved on to Section 1.3 Powers of the City, which basically says that City has the power that the State of Florida gives to municipalities. She asked if the members agreed with this Section.

It was the consensus of the Members that Section 1.3 should remain unchanged.

Dr. Dumont moved on to Section 1.4 Elective Officers, which has multiple subsections. She read Section 1.4(a), which states that the Commission shall be made up of five elected officials with one designated as mayor, and one designated as vice-mayor. She asked the members if they agreed with the number of commissioners representing the City. Mr. George said yes. Ms. England asked if everyone was comfortable with the mayor being designated by the Commissioners or would they want the mayor to be elected. She said that it has worked really well with the Commission designating a mayor. Dr. Dumont said that Ms. England's concern was part of the next Section.

Dr. Dumont moved on and read Section 1.4(b) regarding the designation by the Commission of the mayor and vice-mayor for a term of one-year beginning January 1st each year for no more than two consecutive years, but it would not preclude a City Commissioner from serving as mayor for more than two non-consecutive years. Mr. George said that this was debated at the last Charter review ten years ago and there are two sides to it. He said that after listening to everything over the years, that he liked the way it was and that he did not think that it should be changed. Ms. England said that it has worked well and that she was not aware of any problems with it. Mr. George said that we talked about the mayor being an elected position, but the City is so small, and it would be very difficult. Ms. Neville said that unless there is an intent to have a strong mayor form, that when you have an elected mayor, there is an optic from the community that that person has more than one vote. She said that she has been a part of many communities where it gets skewed because the mayor really only has one vote and that it works well by having the people that are elected pick the mayor.

Mr. Mulligan said that he was curious whether staff had an opinion on this Section. City Manager Royle advised that it is fine the way it is. Ms. Neville questioned whether the number of terms was addressed in the Charter. Dr. Dumont advised that it is two consecutive terms. Ms. Neville asked if that was specific to the mayor or all positions. Dr. Dumont advised that there are no term limits for elected positions, but that you could only be mayor for two consecutive terms. You could then go back to being a regular Commissioner and you could then be redesignated as mayor again. Ms. Neville asked if there was another Section that specifically addressed term limits. Dr. Dumont said yes.

It was the consensus of the members that Section 1.4(b) should remain unchanged.

Dr. Dumont moved on to Section 1.4(c), which discussed elected official's residency and voter registration requirements. Mr. George agreed with it.

Dr. Dumont asked Ms. Neville about her question regarding term limits. Ms. Neville said someone could run over- and-over again since there are no term limits, but that she did not know how often it has occurred and it might be something worth looking at because of the way that the political system runs. She said that leadership change is an opportunity to open the door to new ideas and perspectives. She said that it might incentivize people to be more proactive on agenda items and it might be interesting to talk about the number of terms, but it would not necessarily preclude a resident from running for election again. Dr. Dumont said that you could say that two terms would be the maximum or no more than two consecutive terms. Ms. Neville said that the Charter should not prohibit residents from running for election again, but not to sit in perpetuity. She said that it is a good way to keep things moving forward and that we could make the maximum at eight, twelve, or twenty years. Mr. George said that he is open to talking about it and considering it, but he is concerned because we currently have three or four Commissioners that were totally unopposed. He said that we need to think how big of a change in communication it might be for such a small City and how people get their news and communication. He said that probably eighty percent of the City residents have no idea what goes on here, so how do we address that situation. He said that he understands what Ms. Neville is talking about, but if we have four unopposed Commissioners, then that is a problem. He said that he worked hard to get elected the first two times but lost by two votes because the other side had better communication.

Ms. Neville advised that she had people call her over the past few election cycles asking if they should run and what they needed to do because they are all neighbors, and no one wants to run against their neighbor. She said that if there is an incumbent that has not done anything wrong and they are your neighbor, you might decide not run because of that. She said that people are not running because of the nature of the way the ballots are done, and name recognition is a huge key factor in reelections. Mr. George agreed that it is a very good idea, and he suggested that it should be put off to the next meeting so that everyone would have time to think about it. Dr. Dumont asked if the Members agreed that it should be discussed at the next meeting. She said that right now, Commissioners can all live on the same block, so we may also want to discuss whether that should be broken up to have better representation of the City. Mr. George and Ms. England said that the City is too small to stipulate that requirement. Ms. Neville said that we have that situation right now with two Commissioners living next to each other.

Mr. Wiles said that he has experienced both sides of that and that if you like what is going on in Tallahassee today, then you are in favor of term limits because what is occurring is a direct result of that. Secondly, it takes a while to understand the process and he would argue that was very difficult in eight years, which is what he had in the House. Essentially, what he found was that the staff began to have the upper hand on the issues because they remembered when it was worked on ten years ago and the mistakes that were made. In terms of lobbying, someone that does not fully understand the process would sometimes favor those on the outside, which is good when you are talking about an individual that wants to influence the Board as a citizen, but if he wants something big, it is easier to do that with someone with a lack of experience. He said that he does not mean it in a derogatory way, but he has seen it over-and-over again and that he could identify members of the Florida Senate and House that jump between the term limits and go on to the next stage, sit out for two years, and then they get back in for another eight years, which becomes an interesting process. He said that he believes there is a way to get some fresh blood, but he is not convinced that term limits are the answer because in some ways it takes away the public's opportunity to vote for someone that they like.

Mr. George agreed with everything Mr. Wiles said. He said that he was on the City Commission from 2002 to 2010, then his wife was elected and she has been on the Commission for thirteen years. He said that he watches the Commission meetings and that his wife brings institutional knowledge to the meetings that the newer people do not have. He said that he does not always

agree with his wife, but that is the way it works. He said that everyone needs to know that his wife is a Commissioner and had previously served on the Planning and Zoning Board, and that they have spirited debates about things. He said that Mr. Wiles is right and if we are going to talk about term limits, it should be three terms for a total of twelve years. Ms. England agreed and said that she did the same thing and served on the Planning and Zoning Board and then on the Commission for two terms but because of her age, she decided not to run again and to let someone younger come in, but that she might step back in later on. She said that she would not support a limit of just two terms, and she suggested that if there is going to be a term limit, that it should be three terms. Mr. George suggested that it should not preclude someone from coming back after a certain amount of time. Ms. England said because the City rotates the mayor and vice-mayor positions after two years, it keeps things moving and brings in some new ideas.

Mr. Patrou asked if this discussion was officially being “parking lotted”. Dr. Dumont said that we are deciding whether to put in it the “parking lot”. Mr. Patrou said that he liked the idea of getting new blood in and encouraging people and that it was very interesting to hear what Ms. Neville said. However, he personally thinks that there may be a better way to encourage people to get involved rather than limiting terms within the Charter and to leave it in the hands of the voters. He also appreciated hearing how many people ran unopposed and that he could see that it could create issues. Mr. George said that he was really upset at having four people unopposed because the debate that runs up until the election is important for society because you are out there expressing your views. He said that the City has climate change and flooding issues and that he was surprised that no one ran against them and that whatever this Charter review can do to encourage that through our decisions is important.

Mr. Mulligan said that he did not think that it was odd at all and that he has had the same experience as Ms. Neville from people considering running for election, and the question would be, who are you going to run against. He said that he knows and likes all the Commissioners and that they are doing a great job. He said that it is difficult for someone with aspirations to run for election and to have to choose one of the Commissioners to run against, which may discourage them from running because it may be one of their friends, which is hard to do.

Mr. George said that one of the things that he pushed for over the years, is that the City has an insurance program for all the employees and the Commissioners are employees too, so they should be compensated under that same umbrella because it does not cost the City that much and any Commissioner that wanted to join should be considered. That incentive may spark someone that wants to run for election.

Dr. Dumont said that this is a robust discussion that would be policy and not part of the Charter but that there is a slim majority to move this with more discussion and more data such as how many people have served more than three consecutive terms and how many have run unopposed over the last five cycles. Ms. Neville said that it may not matter but it has been an issue and there are people running unopposed, which happens at the County level too because it is districted. Some people might not want to run against their neighbor, but it is not that they are satisfied with the person, it is because they are a friend, and it would cause issues. Having the data would be helpful and then we could decide what to do but it is not about ousting anyone with historic context. Mr. George said that you should not run against someone because they are your friend, but because you have political courage and you disagree with their policies, which is all the more reason to run. Mr. Mulligan said that he did not believe that they were necessarily disagreeing with someone’s policies, but that they have aspirations to serve their community in local government at that level. He said that because of the sheer size of the County, you do not see unopposed elections very often and he believed that looking at unopposed elections in the City would not be that relevant. He said that they are unopposed because they are neighbors, or

friends, etc. and if he wanted to serve, he would not run against one of them. Mr. George said that he totally disagreed because he has seen Commissioners that make decisions that he disagreed with and that he would consider running against them whether they were a friend or not.

Ms. Neville said that she only brought it up because you could get into a “lame duck” situation or a comfort zone, but she did not know if that serves us. She suggested to get some data and have a discussion; it was just something that was not in there and it is typically something that is addressed. It has been her experience over the past fifteen years that when you see someone that has been sitting on a board for four terms, it is frustrating. Dr. Dumont said that we would bring this back up and have more information the next time we review this. Mr. George said that we could recommend a term limit and the Commission could just say no. Ms. England said that a term limit does not mean that you could not come back and participate and have a voice. Because we are a small City and our mayor’s term rotates, a term limit might help encourage more participation and diversity.

It was the consensus of the members to gather more data and for “term limits” to be discussed again at the next meeting.

Dr. Dumont moved on to Section 1.4(d), which is regarding the election of a Commissioner by the remaining members within sixty days of a vacancy to serve until the next General Election when the electors would elect a Commissioner to serve the remainder of the unexpired term. If the majority of the remaining Commissioners are unable to elect a successor, then a special election would be held to fill the vacancy. Dr. Dumont disagreed with some of the language in Section 1.4 (d) and said that the language “shall be” should be changed to “are”. Mr. George said that is why we need to review it and we should make those notes in addition to everything we are deciding here.

Ms. Neville said that she recently went through this with the passing of a Commissioner, and she suggested clarifying the last sentence to read, “In the event that a majority of the remaining members of the commission shall be unable to elect a successor **by day 60,...**” and to say it again so that it is clear. Dr. Dumont advised that the Charter specifies that the appointment should be made within 60 days after the vacancy. Mr. Mulligan said that he would rather get rid of the last sentence all together. Dr. Dumont asked if he thought that the majority of the remaining members would never be able to decide on somebody. Mr. George said that he had never heard that they didn’t but there could be a tie vote. Dr. Dumont said that it would then be up to the citizens. Mr. Mulligan said that when he sees “special election”, he thinks about how much it would cost because it is expensive, and it does not make sense for the City. Mr. Wiles asked if the City pays for a special election. Dr. Dumont said that she believed that the City would have to pay for it. Ms. Neville asked what mechanism would be in place to solve it. Mr. Mulligan said that what he has seen is that every time there is an issue, they went through rounds, and they eventually got to a place where they agreed and that he has never seen it fail or you would just send it out to the next general election. Ms. England said that the only way she could see that occurring would be if within those sixty days you only had four Commissioners and it ended up in a tie. She said that a special election is expensive and to possibly appoint a tie breaker.

Mr. Wiles said that the intent of the Charter is to provide sufficient numbers to the elected representatives to decide the City’s business. He said the four vs. five members for an extended period of time would not meet the bar of an appropriate number of members, especially if the City ever decided to go into single member districts because then you would have an entire group of people not being represented. He said that he did not know if the City has ever had a special election, which could be one of the things that we ask staff to provide. The threat of a special election might encourage the current Commissioners to take appropriate action so that it remains

their decision. Ms. Neville said that the reason there is an uneven number is because someone needs to be the tie breaker.

Dr. Dumont asked if the members were comfortable with the last sentence except for changing the "shall be" to "are". Mr. George and Ms. England agreed. Mr. George asked if we need to vote on these items. Dr. Dumont said that the vote would be at the final meeting. Ms. Neville said that she would just go back to her original thing and that she is a big "day count" person because she has seen it when there is no day count assigned. She asked how we do a special election, and for how many days do we allow it to go on. She asked if we should put "within three months." Dr. Dumont asked the City Manager how long it would be before the election could actually take place if a special election was called for. City Manager Royle said that he believed that it would take longer than sixty days. Ms. Neville said that we could put sixty to ninety days with the maximum. Dr. Dumont said that the language could be added to the last sentence. Mr. Wiles said now you would be asking the general public to make a decision and there would need to be ample time for those that are running to get their positions out and if you do it really short, you may make some bad decisions. Ms. Neville said that if we do it longer, it may motivate the people sitting there to pick someone.

Dr. Dumont said that another issue would be who would be on the ballot for a special election. She advised that they would have to qualify first and that the time for qualification would be after this and that she would need to sit down with a calendar to figure it out. She said that we could start the special election process within thirty days but not the special election itself within thirty days.

Mr. Patrou asked what the format was for the Commissioners to elect the mayor. Mr. Mulligan advised that it normally seemed somewhat already determined and one Commissioner will make a motion and someone else will second it. Mr. George said that it is not supposed to already be determined because that means that they talked about it. Ms. England advised that it is done by nomination, and, in the past, there had been some seniority allowed. He said that the reason he asked, in light of what Mr. Mulligan spoke about, and the complexity of having a special election, he suggested having the mayor be the tie breaker. Mr. Patrou said obviously there is no other hierarchy of power put upon the mayor, and this would only be in the event of a stalemate within a certain period of time. Mr. Mulligan said he liked the idea of a different tie breaker that sounded a lot less expensive. Mr. Patrou said that it would also be a lot quicker. Ms. Neville said that it would be putting faith in the people that we already voted for. Mr. Patrou asked if those voted people would then vote for the mayor. Ms. Neville advised that she saw one city suffer when their vacancy went on for six months because they could not decide, and she would not want to see that happen here.

Dr. Dumont asked for any other thoughts for possibly having the mayor, or the vice mayor if it is the mayor's position that is open. Mr. Mulligan said that the vice mayor would automatically go to the mayor's position in that case. Dr. Dumont asked if the members liked the idea of the mayor being the tie breaker vs. a special election. Mr. George agreed with it.

Ms. Neville asked if that would be the only time in the Charter or the ordinances where the mayor actually has a vote that is more powerful than the other Commissioners. Mr. Mulligan said that he believed so.

Mr. George suggested finding out how much a special election would cost so that we could make a decision on it. Mr. Mulligan said that he believed that the City had done that once before. City Manager Royle said that he would need to contact the Supervisor of Elections. City Clerk Fitzgerald said that she believed the last time the City proposed a potential special election that it was upwards of five figures. She advised Dr. Dumont that the City does not run its own elections so

any timeline would be at the will of the Supervisor of Elections, and they may not be able to meet our Charter timeline. Ms. Neville said that it would start the process within thirty days, if we decided to go that route, which would give staff the ability to activate that.

Mr. Wiles advised that we need to be aware that there are circumstances that are out of our control and if the sixty-day period ends after qualifying for a general election, then the Supervisor of Elections may not legally be able to include a candidate on the next election. He said to have another election after the general election in November, that he was not sure that we would be making good decisions because we would not know what is going to happen in the future. He said that Ms. Neville made a good suggestion and if the Commission is unable to elect a successor within sixty days, that a special election would be held to fill the vacancy. He said that he believed that it is the obligation of the Supervisor of Elections to conduct that election in an appropriate way within a certain time period and that they would not delay the inevitable because we would be without appropriate representation until that occurs. He said that there is a lot that goes on for an election that is more important than money. He suggested being careful what direction we head because we might be creating something that the Supervisor of Elections may not be able to deliver for us. Dr. Dumont said that if this occurs the day after qualifying ends, then you are forced to wait until after the general election to have the special election. Mr. Wiles said that we would have to start the qualifying process all over again. He said that for him, the intent reads that we are going to have a special election and he believe that the duties of the Supervisor of Election requires them to do things in an appropriate manner or another option would be to let the Governor make the decision, but we should try to keep it under our own control.

Dr. Dumont said that there have been a couple of things that we bounced around on this one, such as having the mayor/vice mayor as the tie breaker and adding or not adding thirty days because of the Supervisor of Elections, and she asked how the members wanted to move forward. Ms. England said that if we lose a Commissioner, we would be left with four Commissioners that all have the same voting authority, and if they are locked, then the tie breaker would have to be a special election. She said that she was not sure if there was any precedent or legal authority to allow the Commission to choose someone else to break the tie, such as the City Manager. She asked the City Manager if he could think of anything else that could be done. City Manager Royle said that you could pick a name out of a hat. Mr. George agreed and said that he had seen that done before. Ms. Neville said that she read something in the Charter but could not remember what topic it was. Mr. Mulligan asked if they were speaking about a tie vote on an issue brought before the Commission or a vote for who a commissioner would be. Ms. England said this is about picking who would temporarily fill the remaining term vacancy on the Commission. Mr. George said that it would be temporary to fill the remaining term and then they would need to register to run in the next upcoming election.

Dr. Dumont said that we have not really moved forward on this yet because she is not hearing any consensus. She said that we could leave it as is with a special election and the cost of that special election could force the Commissioners to make a decision. Or we could do away with the special election and either have a game of chance or specify someone, such as the mayor, to break the tie. Ms. Van Ormer said that special elections can get very complicated. She said that she agreed with Mr. Wiles that we would need to be very careful how we move forward with that and the terms of time because we would really want to fill that position.

Dr. Dumont said that this sounded like it would be a very unusual situation. Mr. George said that we should not overthink it. Dr. Dumont agreed and said that we are spending a lot of time on it, and it is important, but she was not sure if it had ever happened before and maybe that is why it is in the Charter, which might be another question for staff to find out the recommendations and which ones passed ten years ago. Mr. George said that the easiest thing would be to change the

language “shall be” to “are” and leave the rest as is but that he would go with whatever the consensus is. Mr. Mulligan said that he would rather find out the cost for a special election and then discuss any reasonable alternatives. Ms. England said that she would like to hear from legal whether any other person could legally be given authority to be the tie breaker. Mr. George advised that City staff are non-elected employees. Ms. Neville suggested the City Manager’s game of chance. Ms. England said that she did not know if that would be legal to do. Ms. Neville said that the Supervisor of Elections does it that way. Mr. George agreed and said that he had seen it done that way. Ms. Neville said that they usually do a couple of things, such as a coin toss, so it is not just one thing. Mr. Mulligan suggested the mayor could be the tie breaker. Ms. England said you cannot do that, because one of the four remaining Commissioners might be the mayor or vice mayor and they only get one vote each. Mr. George agreed. Mr. Patrou said that it could be done that way if we put it in the Charter and if there is a stalemate after sixty days, that the mayor could choose among the candidates.

Dr. Dumont advised that Sections 1.4(c & d) will be revisited at another date with more data.

Mr. Patrou said that for the special election cost data, he would like to see a best case and worst scenario from a timeline.

Dr. Dumont moved on to Section 1.4 (e & f) and she explained that Section 1.4(e) was reserved for anything regarding elected officers that you feel might be missing and want to add. She said that Section 1.4(f) is regarding the powers of the City, which are guided by what in its Charter and what the State allows it to do.

It was the consensus of the members that Section 1.4(f) should remain unchanged.

Dr. Dumont moved on to Section 1.5 Legislative Body and said that this section looked specifically at the Commission. She read Section 1.5(a) regarding meetings, notices, and minute keeping, and she said that if things ever need to change, it is easier to change ordinances than the Charter. She continued reading and said that it is being redundant to the second line. She said that the first paragraph is talking about the Commission meetings as they normally run, and the second paragraph gets into emergency meetings, and she questioned whether the members may want to get rid of anything in the emergency paragraph (she showed the sections that are redundant).

Ms. Neville said that during Hurricane Matthew, an emergency meeting was called, and they could not attend because they were all under water. She said that there are a lot of weird things in here that we have to prescribe to during an emergency and she questioned whether we should put something in that extends it one step farther, which would activate a different plan for emergency purposes, such as that Emergency Services would become the CEO. She said that it could be addressed at the ordinance level and keep it out of the Charter but not having it in the Charter made it difficult at that time. The Charter states that you must have two-thirds vote but then it says it has to be passed by four-fifths, and if you only have three people that attend, could you have someone like the City Manager or Fire Chief assist in quorum. She said that this situation occurred recently within the last ten years, and it is not the only city that she saw this happen with. Dr. Dumont advised that it would be two-thirds of a quorum and if you have a quorum of three, then it would be two of the three. Mr. Mulligan said that four-fifths needs to be there to declare it an emergency and after that it could be two-thirds to vote. Ms. Neville asked how you would ever have four-fifths if you only had three people and maybe we could add someone such as the Police Chief. She said that it was her observation that this math is hard to get to in an emergency situation and she suggested to possibly add something such as “coordination with the County”.

Mr. Wiles said that an emergency is not defined and while we might think of it as a hurricane, it could also be to relieve the City Manager or Police Chief due to irresponsibility. He suggested that

the voting should be a simple majority and then go from there, but the mayor may be an accomplice to some of the issues and the mayor would not want to call the meeting because they would not want to indict themselves. He suggested that either the mayor or a majority of the Commissioners may request an emergency meeting for whatever purpose they want because an emergency is not defined. If the mayor calls the meeting, you still need the majority to agree to the emergency for it to move forward, but if the mayor refuses to call the emergency meeting, then you would have the majority of the Commissioners who could call the meeting. The next problem would be, if the mayor refused to call the meeting, who would run the meeting. He said that it might be worth looking at what other cities are doing. Ms. Neville said that she did not have any recommendations, but it is something that she had been through a couple of times. Mr. Wiles asked Dr. Dumont if she had any examples of an emergency session. Dr. Dumont advised that they had to fire a city attorney who was arrested and charged but was not going to be found guilty. She said that they had to revise their Charter and that she could look up that language. She said that she had concerns with the majority of the other members that have to be able to communicate with each other or communicate through the City Manager, who would then need to contact each Commissioner, explain the situation, and get feedback whether the individual Commissioner wanted to call an emergency meeting. Mr. Wiles said that that is why he thought the language might be important. He said that he is not suggesting that we make any changes, but if we are going to talk about it again, since the emergency is not defined, it could be anything. Mr. Patrou said that he believed that the parameters were provided for in the Charter because once they get together, they can have a vote to determine whether it is an emergency. He said that he did not believe that the emergency needed to be defined and that he would not be opposed to expanding it to the vice mayor as well, which would provide a secondary person to be able to call an emergency meeting and then the group could collectively decide if it is an emergency. Mr. Wiles said that he did not have an argument for or against the language but maybe something could be done to make it easier to understand and that we could possibly get language from another city's charter.

Ms. England said that this entire section jumps back and forth. She suggested removing the emergency meeting language in the first paragraph and then make a new section on emergency meetings and pull all that information together. She described how Section 1.5 goes from subsections "a" through "e", but then the next paragraph about "appointments and removals" is not labeled as subsection "f" and so the entire section needs to be cleaned up.

Mr. Patrou said that there is a little bit of overlap, but he questioned whether "presence" was defined in the Charter anywhere. Normally it would mean physical presence but since we are in an age of technology, and particularly during an emergency, maybe we should expound that presence or votes could be cast in an electronic form. Dr. Dumont advised that that would be up to the State of Florida and right now you cannot vote electronically unless there is a quorum present in a public place and one person can be offsite.

Dr. Dumont advised that she would work on Section 1.5 Legislative Body, and that we would revisit it at the next meeting, and we would pop the timeline down a little bit. She said that she would like feedback on the rest of Section 1.5, and she read Section 1.5(b), which she said reverts back to Section 1.5(a) but you would still want it to be a simple majority for the Commission to pass anything. She moved on to Section 1.5(c), regarding commissioner compensation being set by ordinance and she asked if the members agreed with that. Mr. George said yes.

No consensus was heard from the members for the minutes.

Dr. Dumont moved on to Section 1.5(d), which states that an "Emergency ordinance shall be passed only upon four-fifths affirmative vote of the city commission as a whole." She said that an emergency ordinance would have only been done during the emergency meeting. Ms. England

advised that an emergency ordinance could be passed at a regular meeting. Ms. Neville said if we were in an emergency, how would we get four-fifths vote. Dr. Dumont advised that the regular Commission could pass emergency ordinances. Ms. England said for example, if something comes up at a regular meeting that needs to be passed right away and there are five Commissioners at that meeting, you would need four of those Commissioners to approve the emergency ordinance. City Manager Royle agreed.

Mr. Patrou said that it made sense, but he also sees Ms. Neville's issue, and he asked if the intent was to reduce the threshold in an emergency meeting. Ms. England said that it does not necessarily have anything to do with an emergency meeting, it is for an emergency ordinance at a regular Commission meeting, which would need four affirmative votes to pass the ordinance. Mr. Patrou said that an ordinance that is passed at an emergency meeting is not on its face an emergency ordinance, it could be a regular ordinance. Dr. Dumont said that it could only be what the emergency was about. Mr. Patrou asked if the definition of an emergency ordinance would be something that was passed without proper notice because isn't that the whole thing behind an emergency meeting. Dr. Dumont advised that she would clean up the language.

Dr. Dumont moved on to Section 1.5(e) regarding Prohibitions and the "interface with administration". She said that Commissioners cannot direct staff, they can only direct the City Manager, the Police Chief, and the City Attorney. She said that Commissioners can call Department Heads if they have questions, such as about information in their agenda packet, but they would need to go through the City Manager to request that a pothole on their street be fixed.

Dr. Dumont asked if the Members agreed with it. Mr. George said yes.

No consensus of all the Members was heard for the minutes.

Dr. Dumont moved on and read Section 1.5(e) regarding "appointments and removals" and asked if the members agreed with it.

It was the consensus of the Members that Section 1.5(e) regarding "appointments and removals" should remain unchanged.

Dr. Dumont moved on and read Section 1.5(e) regarding "holding other offices" and she said that the Commissioners can only hold one public office, which is in the Florida Constitution and former Commissioners cannot be employed by the City until one year after the expiration of their term. Mr. George said that the review committee talked about this ten years ago and agreed that it was fine, and it is still fine. Dr. Dumont asked if the members agreed with it.

It was the consensus of the Members that Section 1.5(e) regarding "holding other offices" should remain unchanged.

Dr. Dumont moved on and read Section 1.6 Mayor, that states that the mayor does not have veto power, which may fall back into the previous discussion of whether the mayor could be a tie breaker vote. Mr. George agreed with it. Dr. Dumont asked if all the Members agreed with it.

It was the consensus of the Members that Section 1.6 should remain unchanged.

Dr. Dumont moved on and read Section 1.7 regarding "forfeiture of office". Mr. George and Ms. England agreed with it. Dr. Dumont asked if the members agreed with it.

It was the consensus of the members that Section 1.7 should remain unchanged.

Dr. Dumont recapped and said that she would clean up the language in the Legislative Body Section 1.5 so that it flows better. She said that prior to the next meeting on December 13th, staff will send the Members the requested information for Section 1.4 Elective Officers regarding the cost for a special election, the best/worst scenario for timelines, how many people held office for

more than two/three terms over the past ten years, how many people ran unopposed, as well as the recommendations from the last review ten years ago and, which of those passed. She advised that in the interim, the City Attorney will look at all the ordinance codes in the current Charter to make sure that they line up with the ordinances because a lot has changed in the past ten years.

Ms. Van Ormer said that she would like to know how many people have run unopposed and whether having people that live close to each other and from one section is a more recent thing because she was not aware of that issue.

VII. ADJOURNMENT

Dr. Dumont asked for a motion to adjourn.

Motion: to adjourn. **Moved by** Member England, **Seconded by** Member Wiles. Motion passed unanimously.

Dr. Dumont adjourned the meeting at 7:54 p.m.

Max Royle, City Manager

ATTEST:

Dariana Fitzgerald, City Clerk

MEMORANDUM

TO: Charter Review Committee Members
FROM: Max Royle, City Manager df
DATE: November 30, 2023
SUBJECT: Information Requested at Your November 8th meeting

After your November 9th meeting, Dr. Dumont sent to the City Manager eight requests for information that resulted from your discussion. Information for each is provided below.

1. Have the City Attorney confirm the ordinance citations in the current Charter.

We suggest that confirmation is unnecessary. The ordinance numbers listed in the Charter are for the ordinances that the Commission adopted to amend various sections of the Charter. After the amendments were approved by either the voters or the Commission, the changes were then codified in the Charter. The ordinance numbers in the Charter are there simply for reference purposes.

2. Identify how many candidates have run opposed for the last five cycles (10 years).

Here's the list:

2014: Two (Seats 1 and 5)

2016: None (Each seat had two candidates.)

2018: Two (Seats 3 and 4)

2020: One (Seat 2)

2022: Four (Seats 1, 3, 4 and 5)

3. Identify how many people have served in office for three or more terms.

Since 2011, just one: Commissioner Undine George. Her terms have been: 2011-2014, 2015-2018, 2019-2022. Her current term is 2023-2026.

Most Commissioners serve two terms if they're not defeated by an opponent. Though some Commissioners have been elected to a third term, they have resigned before completing it.

During the 1990s, there were two or possibly three Commissioners who served three or more terms.

4. List the recommendations from the last Charter Review Committee and identify which ones passed.

From that Committee, there were eighteen proposed amendments to the Charter in 2014. They were:

- Addition of Preamble
- Deletion of boundary description
- Powers of City: deletion of extra-territorial
- Elective offices: move sections, add physical residency, filling vacancies
- Legislative body: special and general meetings

- Add prohibitions
- Mayor: consolidate and amend
- Add forfeiture of office
- City Manager: change appointment and removal vote
- City Manager: change duties, require residency
- Add to Charter Acting City Manager, City Clerk, City Attorney
- Law enforcement: change appointment and supervision of Police Chief
- Require performance evaluations
- Limitations: selling parks, building heights
- Elections: change process for counting absentee ballots
- City Commission election: eliminate groups
- City Commission terms: add term limits
- Add provisions for recall, initiative and referendum

At its April 3, 2014, meeting, the Commission reviewed the recommendations and rejected three:

- Annual performance evaluations
- Doing away with Commission seats and primary elections, so that all candidates would run against each other in the general election.
- Term limits for Commissioners

Attached as page 1-5 are the minutes of the Commission's April 3, 2014, meeting. Each motion is underlined so that you can see whether it was approved.

Of the proposed Charter changes that were on either the August 2014 primary ballot or the November 2014 general election ballot, only one was resoundingly rejected by the voters: having the City Manager appoint the Police Chief. The vote was: 946 no, 699 yes.

5. Has the City ever held a special election?

The answer is no, according to Vicky Oakes, who has worked for the County since 1988, and the City Manager, who has been employed by the City since July 1989.

6. Estimated cost to hold special election.

According to Vicky, based on 2021 costs, the estimated costs would be \$18,333. This does not include the cost for early voting, which would be \$1,750 per day.

7. What are the best and worst timelines for holding a special election i.e., the shortest time to voting; the longest time to voting?

In reply to an email from the City Manager, Vicky responded that Florida Statute 100.151 requires that the Supervisor of Elections be notified of consideration for holding a special election prior to the date being set. She requires a minimum of 90 days' notice.

8. Can someone other than an elected official be designated to break a tie of the Commission in a tie vote to appoint an Interim Commissioner?

In a November 9th email, the City Attorney wrote that he is not aware of any statutory provision that would allow a non-elected person to break a tie. He added: "If there is a deadlock between four Commissioners, whatever was being voted on would fail."

ADDITIONAL INFORMATION FOR APPOINTING AN INTERIM COMMISSIONER

CITY MANAGER NOTES: In the past 30 years, when the Commission has had to appoint an Interim Commissioner because of a resignation, 99% of the time the process has gone smoothly without any delay or controversy. The City Clerk and the City Manager checked the records and found only one instance when the Commission was deadlocked. It was in January and February 2002, when one Commissioner was absent because of illness and the remaining three couldn't agree on an Interim Commissioner to fill a vacancy caused when another Commissioner resigned to move to another state. The delay ended in March 2002, when the sick Commissioner became well and returned to the dais and the four Commissioners then appointed a resident.

SUGGESTION: It is that you consider proposing a Charter amendment that if the Commission within 60 calendar days of when a Commission vacancy occurs hasn't appointed an Interim Commissioner, then the selection of the Interim Commissioner will be decided by chance, such as drawing from a hat or a box the name of one of the residents who has applied for the position. The drawing can be done by the City Attorney.



**MINUTES
SPECIAL CITY COMMISSION MEETING
CITY OF ST. AUGUSTINE BEACH
APRIL 3, 2014 7:00 PM.**

City Hall
2200 A1A South
St. Augustine Beach, FL 32080

CALL TO ORDER

The meeting was called to order by Mayor Samuels at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: Mayor Samuels, Vice-Mayor O'Brien, Commissioner Helhoski, Commissioner Pawlowski, Commissioner Snodgrass.

Also Present: City Manager Royle, City Attorney Whitehouse, Deputy City Clerk Benson, Finance Director Burns, Police Chief Hardwick, Public Works Director Howell, and Building Official Larson.

CONSIDERATION OF CITY CHARTER CHANGES TO PUT ON BALLOT

Discussion by Commission of Possible Changes:

Mayor Samuels recommended some of the ballot questions be placed on the primary ballot, some be discarded, and others placed on the November general election ballot.

Motion: to approve the changes to **sections 1-2 Boundaries, 1-3 Powers, 1-4 Elective Officers, 1-7 Removal/Forfeiture, 1-13 City Clerk and the preamble** for referendum at the August 2014 primary election, Moved by Mayor Samuels, Seconded by Commissioner Snodgrass.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Commissioner Helhoski, Commissioner Pawlowski, Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

Mayor Samuels reviewed sections 1-5 Legislative Body and 1-6 Mayor. She suggested adding to both sections a statement that the Vice Mayor was able to call emergency meetings and sign documents if the Mayor was not available.

Motion: to amend **sections 1-5 Legislative Body and 1-6 Mayor** to authorize the Vice Mayor in the Mayor's absence, and to include the sections on the August primary ballot, Moved by Mayor Samuels, Seconded by Commissioner Snodgrass.

Motion passed unanimously.

Motion: to approve **section 1-8 City Manager** as amended to change "officer" to "qualified individual" in paragraph (a), and to place on the August primary ballot, Moved by Mayor Samuels, Seconded by Commissioner Snodgrass.

Motion passed unanimously.

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Motion: to approve **section 1-9 Law enforcement** with an exception for the current police chief that termination would require a four-fifths vote, and include the section on the November election ballot, Moved by Commissioner Snodgrass, Seconded by Vice-Mayor O'Brien.

Commissioner Snodgrass was in favor of having the police chief report to the city manager as it was common practice and in the best interests of the city. Commissioner Pawlowski objected that it was contrary to the terms stated when he was hired. Commissioner Helhoski suggested separate votes on how many votes needed to terminate the chief and who he reports to.

Ed George, 216 10th Street, supported the current arrangement. Pat Gill, 218 B Street agreed it was best for the current chief.

Robert Kahler, 29 Sunfish Drive, said all personnel, including police, should report to the city manager.

Ann Palmquist, 213 10th Street, said this issue should be decided by the public.

Ron Brown, Anastasia Dunes, said the recommended structure was best for the city.

Mike Longstreet, 11 13th Street, recommended the section state that the police chief had control over his department.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

No: Commissioner Helhoski, Commissioner Pawlowski.

Mayor Samuels said **section 1-15 Annual Performance Evaluations** was not needed in the charter because it was policy now. Commissioner Pawlowski said the evaluations are an obligation of the commission and should be in the charter. Commissioner Helhoski agreed. Commissioner Snodgrass said it was an administrative policy and should not be included in the charter. Vice Mayor O'Brien agreed. Commissioner Pawlowski suggested removing the word "annual" to allow more flexibility.

Motion: to approve section 1-15 with the word "annual" removed, Moved by Commissioner Helhoski, Seconded by Commissioner Pawlowski.

Ed George, 216 10th Street; Ed Slavin, Box 3084, St. Augustine; and Pat Gill, 218 B Street, said it should be in the charter.

Bob Kahler, 29 Sunfish Drive, and Robert Samuels, 110 Mickler Boulevard, opposed having it in the charter.

Vote: Motion failed (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Helhoski, Commissioner Pawlowski.

No: Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

Section 1-16 (b) Building Height. Mayor Samuels said the said some of the measurements were variable and she would add language that it must comply with state and federal law. City Attorney Burnett said the section would be overridden by state and federal law either way and he had no recommendation.

Vice Mayor O'Brien asked Mr. Larson his opinion on putting it in the charter. Mr. Larson said that he did not feel anyone was penalized by the restrictions.

Ed George, 216 10th Street, said voters should decide if the section should be in the charter.

Grace Guido, 104 Dogwood Drive, asked that the paragraph 1(a) be amended to allow items to extend seven (7) feet above the structure instead of the ten (10) feet currently written because the Land Development Regulations currently allow only seven (7) feet. Pat Gill, 218 B Street, Jeff Bartlett, 18 Lee Drive, and Henry Dean, 224 N. Forest Dunes Drive, agreed.

Ed Slavin, Box 3084, St. Augustine, encouraged preserving the low height limits the city had.

Ron Brown, Anastasia Dunes, said no one on the committee wanted to increase the height limit, but they differed on whether it should be in the charter. He felt it was a matter of trusting the elected officials.

Motion: approve section 1-16 (b) as proposed, Moved by Mayor Samuels, Seconded by Commissioner Pawlowski.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Commissioner Helhoski, Commissioner Pawlowski, Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

Section 2-3 Election of Commissioners. Mayor Samuels, Vice Mayor O'Brien, and Commissioner Snodgrass favored the current method. Commissioner Helhoski said he liked the recommendation because the city would never have an uncontested election. He preferred having no primary. Candidates need to be able to show their attributes rather than attack opponents. Commissioner Pawlowski agreed.

Bob Kahler, 29 Sunfish Drive; Bob Samuels, 110 Mickler Boulevard; Margaret England, 750 Ocean Palm Way; Dan Hubley, 5 N. Trident Place, opposed the change.

Nick Binder, 232 Big Magnolia Court; Ed Slavin, Box 3084, St. Augustine; Ann Palmquist, 215 10th Street; and Mike Longstreet, 11 13th Street, favored the change.

Ron Brown, Anastasia Dunes, was concerned that it could result in result in people with less than 50% being elected.

Motion: to approve section 2-3 as recommended for the November ballot, Moved by Commissioner Helhoski, Seconded by Commissioner Pawlowski.

Vote: Motion failed (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Helhoski, Commissioner Pawlowski.

No: Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

Section 2-3 City commission offices. Mayor Samuels, Vice Mayor O'Brien, and Commissioner Snodgrass opposed the recommendation for term limits. Commissioner Pawlowski said the voters should decide whether they want term limits.

Robert Kahler, 29 Sunfish Drive, opposed term limits.

Ed Slavin, Box 3084, St. Augustine, agreed in part with each of them. He felt term limits were a bad idea but the voters should decide.

Pat Gill, 218 B Street, said the people should vote on all of the Charter Review Committee's recommendations.

Motion: to approve section 2-3 for the November ballot, amended to term limits of three (3) terms, Moved by Commissioner Pawlowski, Seconded by Commissioner Helhoski.

Vote: Motion failed (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Helhoski, Commissioner Pawlowski.

No: Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

Section 2-8 Initiative and citizen referendum.

Motion: to approve section 2-8 but remove paragraphs (1) Initiative and (f) (1) Initiative, Moved by Mayor Samuels, Seconded by Vice-Mayor O'Brien.

Bob Rousseau, 17 Bermuda Run Way, said the language was taken from the model charter.

Bill Rosenstock, 57 White Court, opposed the section because special interest groups might push something through.

Ed Slavin, Box 3084, St. Augustine, supported the change, but asked that certain things should be exempt, such as fair housing and non-discrimination ordinances.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Commissioner Helhoski, Commissioner Pawlowski, Commissioner Snodgrass, Mayor Samuels, Vice-Mayor O'Brien.

The City Commission took a short break at 9:30 and reconvened at 9:36.

Direction to City Attorney as to Which Changes to Put in Ordinance(s):

Mr. Burnett said the County Supervisor of Elections advised only 6-8 referendum questions could be on the November general election ballot. The others could be on the August primary election ballot or the City could have a separate election. Mayor Samuels reviewed that sections 1-2 Boundaries, 1-3 Powers, 1-4 Elective officers, the preamble, 1-13 City Clerk and 1-16(a) Parks be on the primary election ballots and the other approved sections would be on the general election ballot.

Ed Slavin, Box 3084, St. Augustine, asked to have section 1-16 (a) parks on the general election ballot. Commissioner Helhoski agreed. Mayor Samuels agreed that it should also be on the general election ballot.

It was the consensus of the City Commission to add section 1-14 City Attorney to the primary ballot.

Discussion of How to Educate the Public Concerning Proposed Changes:

Mr. Burnett advised that the city cannot endorse a position, but can notify the public of the issues. The Commission agreed to provide information through the City website, the St. Augustine Record, and the Jacksonville news organizations. Vice Mayor O'Brien suggested Mayor Samuels speak to homeowner associations, the Civic Association and the League of Women Voters. He offered to help, if needed.

City Manager Royle noted the County needed the primary ballot language to be approved by the end of May. First reading would be at the Commission's May 5 meeting and a special meeting in May could be scheduled for second reading. Mr. Burnett felt a special meeting was not required. He will advise after further research. Mayor Samuels asked the Commission to keep May 19 open, just in case a special meeting is needed.


ADJOURNMENT:

There being no further business to come before the City Commission, the meeting adjourned at 9:58 p.m.

ATTEST:



City Manager



Andrea Samuels, Mayor – Commissioner

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDINGS WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE VIDEO CAN BE FOUND AT WWW.STAUGBCH.COM, OR BY CONTACTING THE OFFICE OF THE CITY MANAGER.)

PREAMBLE

We the people of the City of St. Augustine Beach, Florida, under the constitution and laws of the United States of America and the State of Florida, in order to provide the benefits of local government responsive to the will and values of our citizens, do hereby adopt this Charter to define the powers and structure of our government. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation. We believe in an open, responsive government that abides by the highest ethical standards, operates as a careful steward of the human, fiscal, and natural resources of our city; that allows for fair and equitable participation of all persons in the affairs of the city; that provides for transparency, accountability, and ethics in governance; that fosters fiscal responsibility; and that meets the needs of a healthy, progressive city.

(Ord. No. 14-01, § 1, 6-9-14)

Article 1 – In General

Section 1-1 Name

A municipality to be known and designated as the City of St. Augustine Beach, is hereby established, organized and constituted in the County of St. Johns and State of Florida.

(Laws of Fla., Ch. 59-1790, § 1; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89)

Section 1-2 Boundaries

The territorial boundaries of the City of St. Augustine Beach shall remain as they exist on the date this amended Charter takes effect, provided that the city shall have the power to change its boundaries in the manner prescribed by law. A dated description of the boundaries is posted on the city's website, is on file at city hall, and is available to the public.

(Ord. No. 207, § 1, 4-12-89; Ord. No. 96-24, § 2, 10-7-96; Ord. No. 97-30, § 2, 10-6-97; Ord. No. 97-42, § 2, 12-1-97; Ord. No. 00-03, § 2, 4-3-00; Ord. No. 01-04, 1 2, 3-5-01; Ord. No. 01-

13, § 2, 6-24-02; Ord. No. 03-30, § 2, 9-8-03; Ord. No. 06-13, § 2, 7-10-06; Ord. No. 07-01, § 2, 3-5-07; Ord. No. 14-01, § 3, 6-9-14)

Section 1-3 Powers of the City

The City of St. Augustine Beach shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.

(Laws of Fla., Ch. 59-1790, § 2; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89; Ord. No. 14-01, § 5, 6-9-14)

Editor's note— Section 5 of Ord. No. 14-01, adopted June 9, 2014, changed the title of § 1-3 from "Extraterritorial powers" to read as herein set out.

Section 1-4 Elective Officers

(a) The elective officers of said city shall be five (5) city commissioners, one (1) of whom shall be designated and elected as mayor and one (1) of whom shall be designated as vice-mayor as hereinafter provided.

(b) The mayor and vice-mayor shall be elected by the members of the city commission from their number and the term of office of the mayor and vice-mayor shall be for one (1) year beginning January first of each year and continuing until January first of the succeeding year. Any vacancy in the office of mayor or vice-mayor shall likewise be filled by the city commissioners by the election of one (1) of their number to serve as mayor or vice-mayor, as applicable, for the unexpired term. No member of the commission shall be elected as mayor by the members of the city commission to serve more than two (2) consecutive terms. This subsection shall not be interpreted to preclude a city commissioner from serving as mayor for more than two (2) nonconsecutive terms.

(c) The city commissioners shall have been residents and qualified electors of the City of St. Augustine Beach for a period of one (1) year prior to the date of qualification for election, or appointment to fill a vacancy on the city commission as a result of the death, resignation or disqualification of a city commissioner. Once elected or sworn into office, city commissioners must maintain physical residency and voter registration in the city throughout their terms of office.

(d) In the event of the death, resignation or disqualification of a city commissioner, a successor shall be elected by a majority of remaining members of the city commission within 60 days after said vacancy occurs, to serve until the next general election, at which time the electors of the city shall elect a commissioner to serve for the remainder of the unexpired term. In the event that a majority of the remaining members of the commission are unable to elect a successor, a special election will be held to fill the vacancy.

(e) Reserved.

(f) All powers of the city shall be vested in the city commission except as otherwise provided by law and this Charter. The city commission shall be responsible for the reasonable exercise of those powers, and shall be required to provide for the performance of all duties and obligations imposed on the city by law.

(Laws of Fla., Ch. 59-1790, § 3; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89; Ord. No. 90-1, §§ 1—3, 2-5-90; Ord. No. 04-02, §§ 1—4, 4-5-04; Ord. No. 14-01, § 7, 6-9-14)

Section 1-5 Legislative body

(a) The city commission shall meet at such times as may be prescribed by ordinance, resolution, or as otherwise permitted by Florida Law. The commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

(b) The affirmative vote of at least three (3) members of the city commission shall be required for the passage of any motion of the city commission as such.

(c) The compensation, if any, of the city commissioners and mayor shall be set by the city commission by ordinance.

(d) Time sensitive ordinances will be deemed emergency ordinances, and shall be passed only upon a four-fifths affirmative vote of the city commission as a whole.

(e) The mayor, or in the mayor's absence or unavailability the vice mayor, may call Emergency Meetings of the commission. The most appropriate and effective notice under the circumstances shall be provided and the method of providing notice shall be recorded in the minutes of the meeting. A vote that the meeting is an emergency shall be the first order of business. The affirmative vote of the majority of the commissioners present plus one shall be necessary to confirm that the meeting is an emergency. Failure to obtain this affirmative vote shall preclude conducting further business at the meeting except adjournment. The only subjects that may be considered at this meeting must relate to the stated emergency. An affirmative vote of two-thirds ($\frac{2}{3}$) of a quorum shall be necessary for all other actions taken at an emergency meeting.

(f) Prohibitions. Interference with administration. Except for the purpose of inquiries and investigations, the commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the commission nor its members shall give orders to any such officer or employee, either publicly or privately.

Appointments and removals. Neither the city commission nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the commission may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

Holding other office. Except where authorized by law, no commissioner shall hold any other elected public office during the term for which the member was elected to the commission. No commissioner shall hold any other city office or employment during the term for which the

commissioner was elected to the commission. No former commissioner shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected or appointed to the commission.

Nothing in this section shall be construed to prohibit the commission from selecting any current or former commissioner to represent the city on the governing board of any regional or other governmental agency.

(Laws of Fla., Ch. 59-1790, § 3; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89; Ord. No. 04-02, §§ 11—14, 4-5-04; Ord. No. 14-01, §§ 9, 11, 6-9-14)

Section 1-6 Mayor

The mayor-commissioner shall preside at all meetings of the city commission and shall perform such other duties consistent with his or her office as may be imposed by the commission, and he or she shall have a voice and vote in the proceedings of the city commission, but no veto power. The mayor shall have the authority to issue proclamations, and he or she shall be so recognized by the courts for the purpose of serving civil processes and by the state and federal governments in the exercise of military law. The mayor, or in the mayor's absence or unavailability the vice mayor, shall sign all ordinances passed by the city commission, but shall have no other powers and duties beyond those conferred by this Charter or by the city commission in accordance with provisions of this Charter.

(Laws of Fla., Ch. 59-1790, § 4; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89; Ord. No. 04-02, §§ 9, 10, 4-5-04; Ord. No. 14-01, § 13, 6-9-14)

Section 1-7 Forfeiture of office

A commissioner shall forfeit that office if the commissioner:

- (1) Fails to meet the qualifications for office; or
- (2) Is convicted of a felony during the commissioner's term in office; or

(3) Is absent from three (3) consecutive regular meetings of the city commission unless such absence is excused by the commission by motion duly passed, setting forth the reason for such excuse and entered in the minutes of the meeting.

A vote of three (3) members of the city commission is required to confirm forfeiture of office.

(Laws of Fla., Ch. 70-918, § 1; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89; Ord. No. 14-01, § 15, 6-9-14)

Editor's note— Section 15 of Ord. No. 14-01, adopted June 9, 2014, changed the title of § 1-7 from "Removal of commissioners for unexcused absences" to read as herein set out.

Sec. 1-8. - City manager

The city manager shall be chosen on the basis of professional training, executive and administrative experience, and other qualifications as determined by the city commission. The current city manager at the time of adoption of this amendment may only be removed by a four-fifths vote of the full city commission. Upon the retirement, resignation, or removal of the current city manager, all subsequent city managers shall be appointed or removed by a majority vote of the full city commission for an indefinite term, and may be removed at any time by a majority vote of the full commission. Action to remove the city manager shall be considered final, and the manager shall have no vested rights in his or her office other than those specifically provided in this Charter or by contract. Notwithstanding the action taken by the city commission to remove the manager, the city commission shall hold a public hearing if so requested in writing by the manager. Such public hearing shall be conducted not less than ten (10) days nor more than thirty (30) days following the date of the proposed removal of the city manager.

The city manager need not be a resident of the city at the time of appointment. Within six months of appointment, the city manager shall reside in the city unless the city commission waives this requirement. The manager's compensation shall be fixed by the city commission. Such compensation shall not be reduced during the manager's tenure except as a part of a general salary cutback applicable to all city employees.

The city manager shall be the chief executive officer of the city, responsible to the city commission for the management of all city affairs placed in the manager's charge by or under the charter. The city manager shall:

- (1) Appoint and suspend or remove all city employees and appointive administrative officers provided for, by, or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this Charter or by law;
- (3) Assure that a written annual evaluation is conducted on all employees subject to the manager's direction and supervision. The manager may delegate performance of the evaluations to personnel at the appropriate supervisory level;
- (4) Attend all city commission meetings. The city manager shall have the right to take part in discussion, but shall not vote;
- (5) See that all laws, provisions of this Charter, and acts of the city commission, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;

- (6) Prepare and submit the annual budget and capital program to the city commission and implement the final budget approved by the commission to achieve the goals of the city;
- (7) Submit to the city commission and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (8) Make such other reports as the city commission may require concerning operations;
- (9) Keep the city commission fully advised as to the financial condition and future needs of the city;
- (10) Countersign all contracts made on behalf of the city or to which the city is a party;
- (11) Countersign all bonds, certificates, or other evidences of indebtedness of the city and keep an accurate account thereof;
- (12) Make recommendations to the city commission concerning the affairs of the city and facilitate the work of the city commission in developing policy;
- (13) Provide staff support services for the mayor and commissioners;
- (14) Assist the commission to develop long term goals for the city and strategies to implement these goals;
- (15) Encourage and provide staff support for regional and intergovernmental cooperation;
- (16) Promote partnerships among the commission, staff, and citizens in developing public policy and building a sense of community; and
- (17) Perform such other duties as are specified in this Charter or may be required by the city commission.

Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising his/her own judgment in selecting the personnel of his/her administration.

Acting City Manager. By letter filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability; the city commission may revoke such designation at any time and appoint another qualified person to serve until the city manager returns.

(Laws of Fla., Ch. 59-1790, § 7; Laws of Fla., Ch. 78-607, §§ 1, 2; Ord. No. 207, § 1, 12-4-89; Ord. No. 04-02, §§ 19—22, 4-5-04; Ord. No. 14-01, §§ 17, 19, 6-9-14)

Sec. 1-9. - Law enforcement.

There shall be a chief of police, who shall be appointed by the city commission, and there may be such police officers as may from time to time be determined by the city commission to be necessary. The police officers shall be appointed by the chief of police. Subject to the removal of the chief of police as provided in the next paragraph, said chief of police shall serve at the pleasure of the city commission.

The chief of police shall be chosen on the basis of professional training, executive and administrative experience, and other qualifications. The chief of police shall be appointed by a vote of four-fifths of the full city commission for an indefinite term, and may be removed at any time by four-fifths vote of the full commission, subject to at least sixty-days' notice or sixty-days' severance pay. Action by the city commission to remove the chief of police shall be considered final, and the chief shall have no vested rights in his or her office other than those specifically provided in this Charter. Notwithstanding the action taken by the city commission to remove the chief, the city commission shall hold a public hearing if so requested in writing by the chief. Such public hearing shall be conducted not less than ten (10) days nor more than thirty (30) days following the date of the proposed removal of the chief of police.

The chief of police shall be the head of the law enforcement department. He shall attend the meetings of the city commission, and perform such other duties as may be required by this Charter, by the laws and ordinances of the city or by the city commission.

The chief of police, and police officers shall receive such compensation as may be fixed by the city commission.

(Laws of Fla., Ch. 59-1790, § 5; Laws of Fla., Ch. 78-607, §§ 1, 2; Ord. No. 202, §§ 1, 2, 11-6-89; Ord. No. 207, § 1, 12-4-89; Ord. No. 9-2, §§ 1, 2, 2-5-90; Ord. No. 04-02, §§ 5, 6, 4-5-04)

Sec. 1-10. - Public improvements.

The Legislature of the State of Florida ~~does hereby find and determine~~ has found and determined pursuant to its statutes that the territory defined herein as the City of St. Augustine Beach is the principal beach resort of St. Johns County and as such affords recreational facilities and opportunities to all the citizens of St. Johns County and that the construction, repair and maintenance of roads, streets and runways to the ocean beach in said city are county purposes and nothing herein contained shall be construed as preventing the Board of County Commissioners of St. Johns County from constructing, repairing and maintaining roads, streets and runways to the beach within said City of St. Augustine Beach.

(Laws of Fla., Ch. 59-1790, § 11; Laws of Fla., Ch. 78-607, § 1; Ord. No. 207, § 1, 12-4-89)

Sec. 1-11. - Fire protection, trash and garbage removal and other municipal services.

(a) The city commission is hereby authorized to provide fire protection within the City of St. Augustine Beach, either by owning and operating necessary equipment with either a volunteer or paid fire department, or to contract with another governmental entity by interlocal agreement for service by its fire department.

(b) The city commission is hereby authorized to remove trash and garbage and to perform all other city services either through the use of employees or contractors.

(Ord. No. 207, § 1, 12-4-89; Ord. No. 97-26, § 2, 9-8-97)

Sec. 1-12. - Validation of individual sections.

If any section or part of a section of this Municipal Charter is subsequently found to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of section, unless it appears that such other section or part of section is clearly or necessarily dependent for its operation upon the section or part of section held to be unconstitutional or invalid.

Sec. 1-13. - City clerk.

The city manager shall appoint an officer of the city who shall have the title city clerk. The city clerk shall be the custodian of all city commission records, shall give notice of commission meetings to its members and the public, shall keep minutes of its proceedings, and perform such other duties as prescribed by law, by this Charter, or by direction of the city manager.

Sec. 1-14. - City attorney

There shall be a city attorney appointed by the city commission. The current city attorney at the time of adoption of this amendment may only be removed by a four-fifths vote of the full city commission. Upon the retirement, resignation, or removal of the current city attorney, all subsequent city attorneys shall be appointed or removed by a majority vote. The city attorney shall be a member of the Florida Bar and shall be appointed and may be removed by a majority vote of the full city commission. The attorney shall serve as the chief legal adviser to the commission, the city manager, and all city departments, offices and agencies; shall represent the city in legal proceedings; and, shall perform any other duties prescribed by state law, by this Charter, by ordinance, or as otherwise assigned by the city commission.